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THE WRITINGS

OF

THOMAS JEFFERSON

VOLUME II

1776-1781

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OF

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COLLECTED AND EDITED

BY

PAUL LEICESTER FORD

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1776–1781

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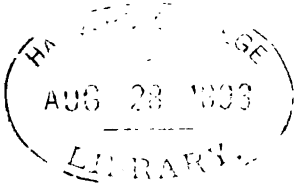

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ITINERARY AND CHRONOLOGY

OF

THOMAS JEFFERSON.

1776–1781.

1776.—Jan. 2.	At Bushtown.
3.	At Baltimore.
4.	At Upper Marlboro.
5.	At Piscataway.
7.	At Fredericksburg.
9.	At Monticello.
Mar. 31.	Mother dies.
May 7.	Leaves Monticello.
8.	At Orange Court-House and Culpeper Court-House.
9.	At Fairfax Court-House and Red House.
10.	At Lacys, Leesburgh and Knowlands on Potomac.
11.	At Fredericktown and Tawneytown.
12.	At Rhengher and Wright's ferriage (Susquehannah).
13.	At Lancaster.
14.	At Chester and Philadelphia.
	Lodges at "Randolphs."
	Attends Congress.
	On Committee on Letters.
21.	Drafts report of Committee.
	On Committee to address foreign mercenaries.
23.	Takes lodgings at Mrs. Graafs.
28.	On Committee to prepare address.
June ?	Drafts Constitution for Virginia.
5.	On Committee for preventing news and supplies for enemy.
10.	On Committee to prepare rules for Congress.
11.	On Committee to prepare Declaration of Independence.

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1776.—June 15.	On Committee to investigate Cedars' cartel.
17.	Drafts report of Committee.
20.	Re-elected member of Congress.
	Drafts report on Canada.
28.	Reports draft of Declaration.
July 4.	Declaration adopted.
	On Committee to plan seal of U. S.
6.	On Committee on Indian affairs.
10.	Committee to prepare rules of Congress report.
11.	On Committee on Philadelphia prisoners.
15.	On Committee on Flying Camp.
17.	On Committee to revise journals.
18.	On Committee on Letters.
24.	On Committee on Gold and Silver coins.
25.	On Committee on Memorial of Parsons.
?	Moves for rotation of Congress.
?	Requests Virginia Convention to allow his return.
Aug. 9.	On Committee to encourage Hessians to desert.
14.	Committee reports.
20.	On Committee on Washington's letter.
	On Committee on captures.
21.	On Committee to revise resolutions.
26.	On Committee on Wilson's letter.
	Drafts report.
28.	Moves resolution in regard to Drummond.
Sept. 2.	Leaves Philadelphia.
4.	At Whitehouse and Lancaster.
5.	At Wright's ferry and York.
6.	At Tawneytown and Frederic.
7.	At Leesburgh.
8.	At Redhouse.
9.	At Monticello.
26.	Elected Commissioner to France.
27.	Leaves Monticello.
Oct. 1.	At Williamsburg.
6.	At "Coles."
8.	At "Bassetts."
11.	At Williamsburg.
	Attends Assembly.
	On Committee on Propositions and Grievances.
	On Committee on Privileges and Elections.
	On Committee on Religion.
	On Committee to draft militia bill.
	On Committee to draft tobacco bill.

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1776.—Oct. 12.	Receives thanks of Assembly.
	On Committee to draft bill ending entails.
	On Committee to draft repeal of frontier ordinance.
14.	On Committee to draft bill to remove seat of government.
	On Committee to draft naturalization bill.
	Entail bill introduced.
15.	On Committee to draft infantry bill.
16.	On Committee to draft bill dividing Fincastle Co.
	On Committee to draft punishment bill.
	Reports on Ross.
18.	Leave of absence granted by Assembly.
	Entail bill amended.
19.	Reports on Corbin.
25.	Reports on Garland and Barber.
	On Committee to draft courts bill.
28.	On Committee to draft bill defining treason.
	On Committee to draft bill dividing Augusta Co.
	Introduces Infantry bill.
Nov. 2.	Reports on Goodrich.
4.	On Committee to draft bill dissolving local governments.
5.	Bill to establish County Courts introduced.
	On Committee to report on Va.-Pa. boundaries.
	Bill for trial of certain offences introduced.
6.	Chosen one of five to revise laws.
7.	On Committee to draft copper-coinage bill.
11.	Introduces bill to remove capital.
12.	On Committee to confer with Senate.
13.	On Committee to draft restraining bill.
19.	On Committee to draft bill suspending tithes.
28.	Reports on Upshur.
Dec. 4.	On Committee to draft bill to punish certain offences.
6.	On Committee to draft bill for loan office.
	Bill for suspending debt executions introduced.
14.	Leaves Williamsburg.
25–31.	At Monticello.
1777.—Jan. 1–10.	At Monticello.
13–16.	At Fredericksburg.
	Attends meeting of "Revisors."
17.	At Orange Court-House.
Mar. 10.	At Monticello.

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1777.—Apr. 1–19.	At Monticello.
May 4.	Leaves Monticello.
5.	Arrives at Williamsburg.
	Attends Assembly.
9.	On Committee on Religion.
	On Committee on Privileges and Elections.
	On Committee on Courts of Justice.
10.	Reports bill regulating militia.
12.	Reports bill for electing Congress delegates.
20.	Granted leave of absence for session.
22.	At Richmond.
28.	At Monticello.
	Son born.
June 14.	Son dies.
18.	At Bedford.
23.	At Cumberland Court-House.
July 6.	At Monticello.
24.	At Monticello.
Aug. 21.	At Monticello.
Oct. 20.	At "Charlton's."
24.	At "Cowles."
30.	At Williamsburg.
	Attends Assembly.
	On Committee on Religion.
	On Committee on Privileges and Elections.
	On Committee of Propositions and Grievances.
	On Committee of Courts of Justice.
	On Committee to draft Court of Appeals bill.
	On Committee to draft General Court bill.
	On Committee to draft Chancery Court bill.
Nov. 5.	Leave of Absence granted.
	On Committee Petition of Vanbibber.
	On Committee on Forestalling.
28.	On Committee to amend Militia bill.
Dec. 1.	On Committee to confer with Senate.
4.	Prepares reply to Senate.
	On Committee on Army bill.
5.	On Committee on Losses of Norfolk.
6.	At Charles City.
9.	At Williamsburg.
	Attends Assembly.
	Reports answer to Senate.
10.	At Cowles Ferry.
12.	At Williamsburg.
	Attends Assembly.

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1777.—Dec. 13.	On Committee to draft Tax bill.
16.	On Committee to draft Salary bill.
	On Committee to draft bill legalizing certain acts.
17.	On Committee to draft bill dividing Counties.
19.	On Committee to draft bill granting Letters of Marque.
24.	On Committee to draft County Court bill.
27.	On Committee to draft bill granting powers to contractors.
	On Committee to amend Small-Pox bill.
1778.—Jan. 2.	On Committee to prepare Answer to Senate.
3.	Granted leave of absence.
9.	Reports Answer to Senate.
12.	On Committee to confer with Senate.
13.	On Committee to draft Sequestration bill.
	On Committee to report on Loyeauté.
20.	On Committee to draft Chancery Court bill.
24.	Assembly adjourns.
Feb. 26–28.	At Monticello.
Mar. 2–14.	At Monticello.
Apr. 8.	At Williamsburg.
May 12.	At Williamsburg.
	Attends Assembly.
13.	On Committee of Privileges and Elections.
	On Committee of Propositions and Grievances.
	Reports bill granting Pardon.
14.	On Committee on Norfolk Losses.
15.	On Committee to draft Cavalry bill.
	On Committee to draft Volunteer bill.
16.	On Committee on Recruiting bill.
18.	On Committee to draft bill for Recovery of Debts.
	On Committee to draft bill for Foreign Correspondence.
19.	On Committee to draft bill giving appointing power to Chancery Court.
20.	On Committee to draft bill relating to Town of Bath.
26.	On Committee to draft bill enforcing attendance of Assemblymen.
28.	On Committee to consider Oyer and Terminer Court bill.
	On Committee to draft Salt bill.
	Reports bill to attaint Philips.
June 1.	Assembly adjourns.

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1778.—June 10.	Leaves Williamsburg.
July 19.	At Monticello.
Aug. 1.	Third daughter born (Mary Jefferson).
Sept. 12.	At Monticello.
Oct. 7.	Ordered into Custody of Sergeant at Arms of Assembly.
Oct. 12–Nov. 4.	At Monticello.
Nov. 22.	At Tuckahoe.
29.	At Cowles.
30.	At Williamsburg.
	Attends Assembly in custody of Sergeant at Arms.
Dec. 1.	On Committee to draft bill establishing Auditors.
3.	On Committee of Privileges and Elections.
	On Committee of Propositions and Grievances.
5.	On Committee to draft Court of Appeals bill.
8.	On Committee to draft Pay-bill of Assembly.
12.	Ordered into Custody of Sergeant at Arms of Assembly.
14.	Attends Assembly in custody of Sergeant at Arms.
15.	On Committee to draft bill agreeable to resolution of Assembly.
18.	Reports bill to prevent Forestalling.
19.	Assembly adjourns.
1779.—Jan. 22.	At Williamsburg.
Feb. 2.	At Williamsburg.
	Attends Meeting of "Revisors."
Mar. 1.	At "The Forrest."
27.	At Monticello.
Apr. 21–29.	At Monticello.
May 8.	At Williamsburg.
	Attends Assembly.
	On Committee of Privileges and Elections.
	On Committee of Propositions and Grievances.
11.	On Committee to draft Board of War bill.
	On Committee to draft Board of Trade bill.
	On Committee to draft Money bill
	On Committee to draft Land Office bill.
13.	On Committee to draft Militia bill.
14.	On Committee to draft Militia Supply bill.
15.	On Committee to draft Congressional Delegate bill.
19.	On Committee to draft Foreign Exchange bill.
25.	On Committee to draft Spottsylvania County bill.
	On Committee to amend Congressional Delegate bill.
	On Committee to draft Counterfeit bill.

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1779.—May 27.	Reports Escheat bill.
	Ordered to draft bill for paying Members of Assembly.
	On Committee to draft bill for removing Capital.
29.	Ordered to draft bill prescribing Oaths.
	Ordered to draft bill suspending Oaths in certain cases.
31.	On Committee to report on Maryland's action on Confederation.
June 1.	Elected Governor of Virginia.
13.	Bill for Religious freedom introduced in Assembly.
18.	"Revisors" report Code to Assembly.
July 1.	Issues proclamation concerning Escheats.
17.	At "The Forrest."
25.	At Williamsburg.
Aug. 4.	At Monticello.
Sept. 25.	At Williamsburg.
Nov. 30.	Issues Proclamation laying Embargo.
1780.—Mar. 28.	At Richmond.[1]
June 1.	Re-elected Governor of Virginia.
Nov. 3.	Fourth daughter born.
Dec. 31.	Receives news of Leslie's Invasion.
1781.—Jan. 2.	Orders out Militia.
4.	Goes to Westham.
	Spends night at Tuckahoe.
5.	Goes to Westham, Manchester, Chetswood, and "Colonel Henry's."
6.	At Westham and "Fine Creek."
7.	At Manchester.
8.	At Richmond.
19.	Issues Proclamation concerning Paroles.
23.	Issues Proclamation convening Assembly.
Feb. 5.	Issues Proclamation concerning Foreigners.

[1] On April 1st the State capital was removed to Richmond. Before that time Jefferson had been almost continuously in Williamsburg, during his administration, and from this date on he was in Richmond most of the time till May, 1781.

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THE WRITINGS OF

THOMAS JEFFERSON.

CORRESPONDENCE AND MISCELLANEOUS WRITINGS.

1776–1779.

TO THOMAS NELSON.[1]

PHILADELPHIA, May 16, 1776.

DEAR NELSON,—I arrived here last Tuesday after being detained hence six weeks longer than I intended by a malady of which Gilmer can inform you. I have nothing new to inform you of as the last post carried you an account of the naval engagement in Delaware. I inclose a vote of yesterday on the subject of government as the ensuing campaign is likely to require greater exertion than our unorganized powers may at present effect. Should our Convention propose to establish now a form of government perhaps it might be agreeable to recall for a short time their delegates. It is a work of the

[1] From the original in the American Antiquarian Society, of Worcester, Mass.

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most interesting nature and such as every individual would wish to have his voice in. In truth it is the whole object of the present controversy; for should a bad government be instituted for us in future it had been as well to have accepted at first the bad one offered to us from beyond the water without the risk & expence of contest. But this I mention to you in confidence, as in our situation, a hint to any other is too delicate however anxiously interesting the subject is to our feelings. In future you shall hear from me weekly while you stay, and I shall be glad to receive Conventional as well as publick intelligence from you.

P. S.—In the other colonies who have instituted government they recalled their delegates, leaving only one or two to give information to Congress of matters which might relate to their country particularly, and giving them a vote during the interval of absence.

I am at present in our old lodgings tho' I think, as the excessive heats of the city are coming on fast, to endeavor to get lodgings in the skirts of the town where I may have the benefit of a freely circulating air. Tell Page & McClurgh that I received their letters this morning and shall devote myself to their contents. I am here in the same uneasy anxious state in which I was the last fall without Mrs. Jefferson who could not come with me. I wish much to see you here, yet hope you will contrive to bring on as early as you can in convention the great questions of the session. I suppose they will tell us what to

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say on the subject of independence,[1] but hope respect will be expressed to the right of opinion in other colonies who may happen to differ from them. When at home I took great pains to enquire into the sentiments of the people on that head, in the upper counties I think I may safely say nine out of ten are for it. Adieu. My compliments to Mrs. Nelson.

May 19. Yesterday we received the disagreeable news of a second defeat at Quebec. Two men of war, two frigates and a tender arrived there early on the 6th instant. About 11 o'clock the same day the enemy sallied out to the number of a thousand. Our forces were so dispersed at different posts that not more than 200 could be collected at Headquarter's. This small force could not resist the enemy. All our cannon, 500 muskets & 200 sick men fell into their hands. Besides this one of their frigates got possession of a batteau with 30 barrels of powder & an armed vessel which our crew was forced to abandon. Our army was to retreat to the mouth of the Sorel.

Genl. Arnold was to set off from Montreal to join them immediately, upon whose rejoining them, it was hoped they might return as far as Dechambeau. General Wooster has the credit of this misadventure, and if he cannot give a better account of it than has yet been heard, I hope he will be made an example of. Generals Thomas and Sullivan were on their

[1] The Virginia Convention passed the instruction for independence the day before this was written.

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way with reinforcements. Arnold had gone up to Montreal on business, or as some say, disgusted by Wooster.

The congress having ordered a new battalion of riflemen to be raised in Virginia, Innis wishes much to be translated to it from the Eastern shore which was so disagreeable to him that he had determined to have resigned.

REPORT OF COMMITTEE ON CANADIAN AFFAIRS.[1] C. C.

[May 21, 1776.]

R. 1. post-pon'd Resolved that the Commissioners for Indian affairs in the Northern department be directed to use their utmost endeavors to procure the assistance of the Indians within their department to act against the enemies of the Colonies, that they particularly endeavor to engage them to undertake the reduction of Niagara, engaging on behalf of Congress to pay them 133⅓ dollars for every prisoner they shall take and bring to headquarters, or to the said Commissioners.

R. 2. post-pon'd Resolved that the Commissioners for Indian affairs in the Middle department be directed to use their utmost endeavors to procure the assistance of the Indians within their department, that they particularly endeavor to engage them

[1] On May 14, 1776, "a letter of the 11th from general Washington inclosing sundry papers; a letter of the 3d from general Schuyler; and a letter of the 9th from Daniel Robertson, were laid before Congress and read: Resolved, That they be referred to a committee of three. The members chosen, Mr. W. Livingston, Mr. Jefferson, and Mr. J. Adams." On May 16th letters from the Commissioners of Congress in Canada, and from Washington, were referred to the same Committee. They presented the above report May 21st, which was read the same day, and consideration postponed. It was again considered on the 22d, and sundry resolutions adopted. *Cf. Journal of Congress.* This report is printed from the original in Jefferson's handwriting, which is headed "Report on Indians."

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to undertake the reduction of Detroit upon the same terms offered the Indians who shall go against Niagara.

Resolved that the Commissioners in each of the said departments be directed to employ one or more able partisans whom the Congress will liberally reward for their exertions in the business to be committed to them. R. 3. post-pon'd

Resolved that it is the opinion of this Committee that there be raised for the Service of the United Colonies one battalion of Germans.[1] R. 4. referred to N. J. & P. for

Resolved that the companies of riflemen from Virginia and Maryland be regimented and that the regiment be compleated to the original number of the Pennsylvania battalion. R. 5.

Resolved that the Pennsylvania battalion of riflemen be compleated to their original establishment. R. 6. a

Resolved that two Companies of the forces now in the Delaware counties be ordered to Cape May. R. 6. b

Resolved that the Committee appointed to Contract for cannon be directed to procure a number of brass or iron field pieces to be made or purchased immediately [and sent to Canada.] [2] R. 7.

Resolved that a proper assortment of Medicenes be sent to Canada. R. 8. Comᵉ. already appointed to procure medec.?

Resolved that Mr. James Mease be directed to purchase & forward to the Quarter Master general in New York as much cloth for tents as he can procure. R. 9.

Resolved that proper persons be appointed by Congress to purchase such articles as may be wanted for the use of the soldiers in Canada & send the same to Albany, that they may be forwarded to the R. 10. Comᵈ. to the Comᵉ. of which Mr. Shearman is Chairman

[1] This paragraph is stricken out.

[2] The words in brackets are stricken out.

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army in Canada: and that they be particularly attentive to provide in time a sufficient number of leathern breeches & under waistcoats, and such other winter cloathing as may be necessary for them.

R. 11. Resolved that the Committee appointed to contract for the making of shoes for the army be directed to forward with all expedition to the Quarter Master in Canada such as are already provided.

R. 12. Resolved that Prisoners taken by continental arms be not exchanged by any authority but the Continental Congress.

R. 13. Resolved that it is the opinion of this Committee that all vessels which sailed from the port or harbor of Boston whilst the town of Boston was in possession of the enemy, having on board the effects belonging to the enemies of America & which have been or may be seized be liable, together with the said effects, to confiscation; in the same manner and proportions as have been heretofore resolved by Congress.

R. 14. Resolved that the Continental agents in the respective colonies where no courts have been established for the trial of captures have power & be directed to dispose at public sale of such articles of a perishable nature as shall be taken from the enemies of America, and that the money arising from such sale be liable to the decree of such court whenever established.

Resolved that the inventory of the Ordinance Stores taken by Capt. Manly be sent to General Washington, & that he be requested to appoint a person on the part of the Colonies to join one on the part of Captain Manly & his crew, who, having first taken an oath for that purpose, shall proceed to value the same, & if they cannot agree in the value they shall call in a third person to determine the same: that the report of such persons be returned to Congress so soon as may be, and the value of the stores belonging to Captn. Manly & his crew be thereupon transmitted them.

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PROPOSED CONSTITUTION FOR VIRGINIA.[1]

[June, 1776.]

FIRST DRAFT.

A Bill for new modelling the form of government and for establishing the Fundamental principles of our future Constitution

Whereas George king of Great Britain & Ireland and Elector of Hanover.[2]

FAIR COPY.

[*A Bil*]l for new-modelling the form of Government and for establishing the Fundamental principles thereof in future.

Whereas George Guelf king of Great Britain and Ireland and Elector of Hanover,

[1] The fair copy is endorsed in Jefferson's handwriting, "A Bill for new modelling the form of government, & for establishing the fundamental principles thereof in future. It is proposed that this bill, after correction by the Convention, shall be referred by them to the people, to be assembled in their respective counties and that the suffrages of two thirds of the counties shall be requisite to establish it." The rough draft has no preamble, though space was left for it. In both copies the erasures and interlineations are indicated. The bracketed portions in Roman are so written by Jefferson. Those in italic are inserted by the editor. For these most important papers I am under obligation to the courtesy of Mr. Cassius F. Lee of Alexandria, Va., and Mr. Worthington Chauncey Ford, of Brooklyn, N. Y., not merely for photographic reproductions, but also for the facts concerning them given at large in his *Jefferson's Constitution for Virginia* (*The Nation*, LI, 107). This constitution, though mentioned in several of the histories and other works concerning Virginia, and though seen by Wirt (*Life of Patrick Henry*, p. 196), and by Leigh (*Debates of Virginia Convention, 1830*, p. 160), has never yet been printed or even quoted. The history of its production is as follows:

On December 4, 1775, the Continental Congress resolved that if the "Convention of Virginia shall find it necessary to establish a form of government in that Colony, it be recommended to that Convention to call a full and free representation of the people, and that the said representatives, if they think it necessary, establish such forms of government as in their judgment will best produce the happiness of the people." The Convention received this resolution on Dec. 13th, but took no action upon it. In April a new Convention was elected, which met on May 6th, and on May 15th appointed a Committee to pre-

[2] This heading is written on a separate sheet, the remainder of the page being left blank.

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heretofore entrusted with the exercise of the kingly office in this government hath endeavored to pervert the same into a detestable and insupportable tyranny;

by putting his negative on laws the most wholesome & necessary for ye public good;

pare a "Declaration of Rights" and a "Form of Government." In the mean time the Continental Congress, on motion of John Adams, May 10, 1776, "recommended to the respective assemblies and conventions of these United Colonies where no government sufficient to the exigencies of their affairs hath been hitherto established, to adopt such government as shall in the opinion of the representatives of the people best conduce to the happiness and safety of their constituents in particular, and America in general." On May 27th the resolutions of the Virginia Convention were laid before the Continental Congress, and between that date and the middle part of June, Jefferson, while attending Congress, drew up this constitution. This he forwarded to Pendleton in the Convention, by George Wythe, who was returning from Congress to Virginia, and the latter wrote him, July 27, 1776:

"When I came here the plan of government had been committed to the whole house. To those who had the chief hand in forming it the one you put into my hands was shewn. Two or three parts of this were, with little alteration, inserted in that: but such was the impatience of sitting long enough to discuss several important points in which they differ, and so many other matters were necessary to be dispatched before the adjournment that I was persuaded the revision of a subject the members seemed tired of would at that time have been unsuccessfully proposed." Of it, Jefferson, in 1825, wrote:

"I was then at Philadelphia with Congress; and knowing that the Convention of Virginia was engaged in forming a plan of government, I turned my mind to the same subject, and drew a sketch or outline of a Constitution, with a preamble, which I sent to Mr. Pendleton, president of the convention, on the mere possibility that it might suggest something worth incorporation into that before the Convention. He informed me afterwards by letter, that he received it on the day on which the Committee of the Whole had reported to the House the plan they had agreed to; that that had been so long in hand, so disputed inch by inch, and the subject of so much altercation and debate; that they were worried with the contentions it had produced, and could not, from mere lassitude, have been induced to open the instrument again; but that, being pleased with the Preamble to mine, they adopted it in the House, by way of amendment to the Report of the Committee; and thus my Preamble became tacked to the

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by denying to his governors permission to pass laws of immediate and pressing importance, unless suspended in their operations for his assent, and, when so suspended, neglecting to attend to them for many years;

work of George Mason. The Constitution, with the Preamble, was passed on the 29th of June, and the Committee of Congress had only the day before that reported to that body the draught of the Declaration of Independence. The fact is, that that Preamble was prior in composition to the Declaration; and both having the same object, of justifying our separation from Great Britain, they used necessarily the same materials of justification, and hence their similitude."

Jefferson, both at the time, and afterwards, denied the power of the Virginia Convention to adopt a permanent constitution, on the grounds that it was chosen an executive body to carry on the war, and that independence and the establishment of a state government were not before the people when they chose the delegates to it. Edmund Randolph (MS. *History of Virginia*, p. 63) states that:

"Mr. Jefferson, who was in Congress, urged a youthful friend in the convention to oppose a permanent constitution until the people should elect deputies for the special purpose. He denied the power of the body elected (as he conceived them to be agents for the management of the war) to exceed some temporary regimen." The leading members of the convention, however, according to Randolph, "saw no distinction between the conceded powers to declare independence, and its necessary consequence, the fencing of society by the institution of government."

In pursuance of his opinion, Jefferson's proposed constitution was given the form of a mere act, and much is included which has no place in a constitution. The non-concurrence of the convention in his view, and even more, the aristocratic limits on the franchise and the unfavorable discrimination against the western counties, that the planter and tide-water representatives secured, which made "no grosser error than to suppose that the Constitution of Virginia was formed in 1776, [for] its two great distinctive features, the *sectional*, and the *aristocratic*, had been given to it a century before" (*Debates of Virginia Convention, 1830*), were the causes for his dislike of the Constitution adopted in 1776, and of his constant attempts to obtain its alteration. His objections are indicated in his *Notes on Virginia* (Query XIII, ¶ 5) as well as in his correspondence, and his preparation of his "Fundamental Constitution" in 1783 and his "Notes for a Constitution" in 1794; both of which form striking examples, in contrast to this, of the democratic development of his mind.

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by refusing to pass certain other laws, unless the person to be benefited by them would relinquish the inestimable right of representation in the legislature

by dissolving legislative assemblies repeatedly and continually for opposing with manly firmness his invasions on the rights of the people;

when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head;

by endeavoring to prevent the population of our country, & for that purpose obstructing the laws for the naturalization of foreigners & raising the condition [*lacking appro*]priations of lands;

[*by keeping among u*]s, in times of peace, standing armies and ships of war;

[*lacking*]ing to render the military independent of & superior to the civil power;

by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation.

for quartering large bodies of troops among us;

for cutting off our trade with all parts of the world;

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for imposing taxes on us without our consent ;

for depriving us of the benefits of trial by jury ;

for transporting us beyond seas to be tried for pretended offences ; and

for suspending our own legislatures & declaring themselves invested with power to legislate for us in all cases whatsoever ;

by plundering our seas, ravaging our coasts, burning our towns and destroying the lives of our people ;

by inciting insurrections of our fellow subjects with the allurements of forfeiture & confiscation ;

by prompting our negroes to rise in arms among us ; those very negroes whom ~~he hath from time to time~~ by an inhuman use of his negative he hath refused permission to exclude by law ;

by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, & conditions of existence ;

by transporting at this time a large army of foreign mercenaries [*to complete*] the works of death, desolation & tyranny

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already begun with circum- [*stances*] of cruelty & perfidy so unworthy the head of a civilized nation ;

by answering our repeated petitions for redress with a repetition of injuries ;

and finally by abandoning the helm of government and declaring us out of his allegiance & protection ;

by which several acts of misrule the said George Guelf has forfeited the kingly office and has rendered it necessary for the preservation of the people that he should be immediately deposed from the same, and divested of all its privileges powers, & prerogatives :

And forasmuch as the public liberty may be more certainly secured by abolishing an office which all experience hath shewn to be inveterately inimical thereto ~~or which~~ and it will thereupon become further necessary to re-establish such ancient principles as are friendly to the rights of the people and to declare certain others which may co-operate with and fortify the same in future.

Be it therefore enacted by the authority of the people that the said George the third king of Great Britain and elector of Hanover ~~formerly holding &~~

Be it therefore enacted by the authority of the people that the said, George Guelf be, and he hereby is deposed from the kingly office within

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~~exercising the kingly power of~~ ~~fice within this colony be & he~~ ~~is,~~ be & he is hereby ~~absolutely~~ ~~divested of~~ deposed from the kingly office ~~& powers within~~ ~~this colony~~, within yt government & absolutely divested of all it's rights and powers & that he & his descendants & all persons claimg by or through him & all other persons whatsoever ~~are hereby declared~~, shall be & forever remain incapable of ~~being again appointed to holding~~ the same & ~~further~~ that the sd office shall henceforth cease and be never more erected within this ~~government~~ colony.

this government and absolutely divested of all it's rights, powers, and prerogatives: and that he and his descendants and all persons acting by or through him, and all other persons whatsoever shall be and forever remain incapable of the same: and that the said office shall henceforth cease and never more either in name or substance be re-established within this colony.

And be it further enacted by the authority aforesaid that ~~the in lieu of those which have heretofore taken place~~ the following fundamental laws & principles of government shall henceforth be established.

And be it further enacted by the authority aforesaid that the following fundamental laws and principles of government shall henceforth be established.

The Legislative, Executive, & Judicial offices shall be kept for ever separate, & no person exercising the one shall be capable of appointment to the others or to either of them.

The Legislative, Executive and Judiciary offices shall be kept forever separate; no person exercising the one shall be capable of appointment to the others, or to either of them.

I. LEGISLATIVE.

Legislative. Legislation shall be exercised by two separate houses ~~who shall be called the General Assembly of~~

Legislation shall be exercised by two separate houses, to wit a house of Representatives, and a house of Senators, which shall

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~~Virginia~~ to wit a house, of Representatives and a house of Senators which shall be called the General assembly of Virginia.

The sd house of representatives shall be composed of persons chosen by the people annually on the [day of ~~December~~] and shall have power to meet in General Assembly on the [day of ~~January~~] following & so from time to time on their own adjournments, or at any other time when summoned by the Administrator, & to continue sitting so long as they shall think the publick service requires.

Vacancies in the sd house by death or disqualification shall be filled up by the electors under a warrant from the Speaker of the house.

~~All persons holding [half~~ All male persons of full age & sane mind having a freehold estate in [¼ of an acre] of land in any town, or in [25~~0~~] acres of land in the country, & all persons resident in the ~~country~~ colony who shall have paid scot & lot to government the last [~~three~~ two] years shall have right to ~~vote~~ give their vote in the election of their respective representatives. And ~~all~~ every person so qualified to ~~vote~~ elect shall be be called the General Assembly of Virginia.

The sd house of Representatives shall be composed of persons chosen by the people annually on the [1st day of October] and shall meet in General assembly on the [1st day of November] following and so from time to time on their own adjournments, or at any time when summoned by the Administrator and to shall continue sitting so long as they shall think the publick service requires. **Ho. of Representatives.**

Vacancies in the said house by death or disqualification shall be filled by the electors under a warrant from the Speaker of the said house.

All male persons of full age and sane mind having a freehold estate in [one fourth of an acre] of land in any town, or in [25] acres of land in the country, and all persons resident in the colony who shall have paid scot and lot to government the last [two years] shall have right to give their vote in the election of their respective representatives. And every person so qualified **Electors.** **Elected.**

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capable of being elected; provided he shall have given no bribe either directly or indirectly to any elector ~~voting for~~ & and shall take an oath of fidelity to the ~~government before he enters~~ state & of duty in his office on the exercise thereof ~~his office~~, and ~~shall hold~~ during his continuance ~~therein~~ in the said office he shall hold no public post of profit either himself or by another for his use.

to elect shall be capable of being elected, provided he shall have given no bribe either directly or indirectly to any elector, and shall take an oath of fidelity to the state and of duty in his office, before he enters on the exercise thereof. During his continuance in the said office he shall hold no public pension nor post of profit, either himself, or by another for his use.

The number of representatives for each county or borough shall be so proportioned to the number of it's qualified electors that the whole number of representatives shall not exceed [300] nor be less than [150] for the present there shall be one representative for every [400] qualified electors in each county or borough; but when ever this or any future proportion shall be likely to exceed or fall short of the limits beforementioned, the proportion shall be again adjusted by the house of representatives.

The number of Representatives for each county or borough shall be so proportioned to the numbers of it's qualified electors that the whole number of representatives shall not exceed [300] nor be less than [125.] for the present there shall be one representative for every [ ] qualified electors in each county or borough: but whenever this or any future proportion shall be likely to exceed or fall short of the limits beforementioned, it shall be again adjusted by the house of representatives.

The house of representatives when met shall be free to act according to their own judgments.

The house of Representatives when met shall be free to act according to their own judgment and conscience.

Senate. The Senate shall consist of [~~15~~] not less than [15] nor more than [50]

The Senate shall consist of not less than [15] nor more than [50] **Senate.**

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members ~~at the least~~, who shall be appointed by the house of representatives [~~for life.~~ Their qualifications shall be an oath of fidelity to ~~government~~ the state & of duty in their office the being of [31] years of age at the least and the having given no bribes directly or indirectly to obtain their appointment: while in the Senatorial office they shall be incapable of holding any public posts of profits either themselves or by others for their use. ~~With the house of Senators~~][1] One third of them shall be removed out of office by lot at the end of the first three years & their places be supplied by a new appointment; one other third shall be removed by lot in like manner at the end of the second three years & their places be supplied by a new appointment; after which one third shall be removed annually at the end of every three years according to seniority. When once removed they shall be forever incapable of being re-appointed to that house.

The judges of the General court & of the High court of chancery shall have session & deliberative voice but not suffrage in the house of Senators.

members who shall be appointed by the house of Representatives. One third of them shall be removed out of office by lot at the end of the first [three] years and their places be supplied by a new appointment; one other third shall be removed by lot in like manner at the end of the second [three] years and their places be supplied by a new appointment; after which one third shall be removed annually at the end of every [three] years according to seniority. When once removed, they shall be forever incapable of being re-appointed to that house. Their qualifications shall be an oath of fidelity to the state, and of duty in their office, the being [31] years of age at the least, and the having given no bribe directly or indirectly to obtain their appointment. While in the senatorial office they shall be incapable of holding any public pension or post of profit either themselves, or by others for their use.

The judges of the General court and of the High court of Chancery shall have session and deliberative voice, but not suffrage in the house of Senators.

[1] This portion in brackets is cancelled by the paragraph following, which is pasted as a flap over it.

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The Senate & the house of representatives shall each of them have power to originate & amend bills, save only that money bills shall be originated & amended by the Representatives only; ~~and~~ the assent of both houses shall be requisite to pass a law.

The General assembly shall have no power to pass any law inflicting death for any crime excepting murder & excepting also those offences in the military service for which they shall think punishment of death absolutely necessary; ~~nor shall they have power to prescribe~~ and all capital punishments in other cases are hereby abolished: nor shall they have power to prescribe torture in any case whatever; ~~nor for inflicting torture for in any cause whatever~~ nor shall any law for levying money be in force longer than [ten] years from the time of it's commencement.

Two thirds of the members of either house shall be a quorum to proceed to business.

Delegates see post.

~~For~~ The ~~exercise of the~~ executive powers shall be exercised ~~by~~ in manner following one person to be called

Executive Administrator

The Senate and the house of representatives shall each of them have power to originate and amend bills; save only that bills for levying money ~~bills~~ shall be originated and amended by the representatives only: the assent of both houses shall be requisite to pass a law.

The General assembly shall have no power to pass any law inflicting death for any crime, excepting murder, & ~~such~~ those offences in the military service for which they shall think punishment by death absolutely necessary: and all capital punishments in other cases are hereby abolished. Nor shall they have power to prescribe torture in any case whatever: nor shall there be power anywhere to pardon crimes or to remit fines or punishments: nor shall any law for levying money be in force longer than [ten years] from the time of its commencement.

[Two thirds] of the members of either house shall be a Quorum to proceed to business.

II. Executive.

The executive powers shall be exercised in manner following.

One person to be called the [Adminis-

Administrator

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the [Administrator] who shall be annually appointed by the [house of representatives] on the second day of their first session, & who after having acted [one] year shall be incapable of being again appointed ~~till~~ to that office until he shall have been out of the ~~said~~ same office [three] years.

Under him shall be appointed by the same house & at the same time a Deputy Administrator to assist his principal in the discharge of his office, & to succeed ~~to the whole powers thereof~~ in case of his death before the year shall have expired, to the whole powers thereof during the residue of the year. **Deputy Admr.**

The Administrator shall possess the powers formerly held by the king save only that

he shall be bound by acts of legislature tho' not expressly named.

he shall have no negative on the bills of the Legislature.

he shall be liable to action tho' not to personal restraint for private duties or wrongs?

he shall not possess ~~no~~ the prerogatives ~~of~~

of dissolving, proroguing, or adjourning either house of assembly

trator] shall be annually appointed by the house of Representatives on the second day of their first session, who after having acted [one] year shall be incapable of being again appointed to that office until he shall have been out of the same [three] years.

Under him shall be appointed by the same house and at the same time, a Deputy-Administrator to assist his principal in the discharge of his office, and to succeed, in case of his death before the year shall have expired, to the whole powers thereof during the residue of the year. **Deputy Admr.**

The administrator shall possess the power formerly held by the king: save only that, he shall be bound by acts of legislature tho' not expressly named;

he shall have no negative on the bills of the Legislature;

he shall be liable to action, tho' not to personal restraint for private duties or wrongs;

he shall not possess the prerogatives;

of dissolving, proroguing or adjourning either house of Assembly;

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of Declaring war or ~~making~~ concluding peace
of issuing letters of marque or reprisal
of raising or introducing armed forces, building armed vessels, forts or strongholds.
of coining monies or regulating their value.
of regulating weights & measures.
of erecting courts, offices, boroughs, corporations, fairs, markets, ports, beacons, lighthouses, seamarks.
of laying embargoes or prohibiting the exportations of any commodity for a longer space than 4 days.
of retaining or recalling a member of the state but by legal process pro delicto vel contractu.
of making denizens.
of pardoning crimes or remitting fines or punishmts.
of creating dignities or granting rights of precedence.

but these powers shall be exercised by the legislature alone.

of declaring war or concluding peace;
of issuing letters of marque or reprisal;
of raising or introducing armed forces, building armed vessels, forts or strongholds;
of coining monies or regulating their values;
of regulating weights and measures;
of erecting courts, offices, boroughs, corporations, fairs, markets, ports, beacons, lighthouses, seamarks.
of laying embargoes, or prohibiting the exportation of any commodity for a longer space than [40] days.
of retaining or recalling a member of the state but by legal process pro delicto vel contractu.
of making denizens.
~~of pardoning crimes, or remitting fines or punishments.~~
of creating dignities or granting rights of precedence.

but these powers shall be exercised by the legislature alone. and excepting also those powers which by these fundamentals are given to others, or abolished.

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A privy council shall be annually appointed by the house of Representatives ~~to consist of such number as they shall~~ whose duty it shall be to give advice to the Administrator when called on by him. With them the Deputy Admr shall have session & suffrage

Privy Council.

Delegates insert here.

Treasurer A Treasurer &c.
Delegates see below

High Sheriffs and coroners of counties shall be annually elected by hose qualified to vote for representatives: ~~but officers of the courts of general jurisdiction and~~ [*part missing*] ~~by their respective courts~~ and no person who shall have served as high

Sheriffs &c.

A Privy council shall be annually appointed by the house of representatives whose duties it shall be to give advice to the Administrator when called on by him. With them the Deputy Administrator shall have session and suffrage.

Privy Council

Delegates to represent this colony in the American Congress shall be appointed when necessary by the house of Representatives. After serving [one] year in that office they shall not be capable of being re-appointed to the same during an interval of [one] year.

Delegates

A Treasurer shall be appointed by the house of Representatives who shall issue no money but by authority of both houses.

Treasurer

An Attorney general shall be appointed by the house of Representatives

Attorney Genrl.

High Sheriffs and Coroners of counties shall be annually elected by those qualified to vote for representatives: and no person who shall have served as high sheriff [one] year shall be capable of being re-elected to the said office in the same county

High Sheriffs, &c.

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sheriff [one] year shall be ~~in~~capable of being re-elected to the said office in the same county till he shall have been out of office [five] years.

till he shall have been out of office [five] years.

All other officers civil & mili-

~~Delegates see below~~ tary shall be appointed by the Administrator but such appoint-

Other officers ment shall be subject to the negative of the privy council. Saving however to the legislature a ~~right~~ power of transferring ~~from the Administrator the right of ye~~ to any other persons appointment ~~of such officers to any persons they may think fit~~ of such offices or any of them.

All other Officers civil and military shall be appointed by the Administrator; but such appointment shall be subject to the negative of the Privy council, saving however to the Legislature a power of transferring to any other persons the appointment of such officers or any of them.

Other Officers

~~The~~ A Treasurer shall be ap-

Treasurer pointed by the house of Representatives, who shall issue no money but by ~~warrant from~~ authority of both houses.

Delegates ~~shall be appointed~~

Delegates to represent this colony in the American Congress shall be appointed when necessary by the H. of Represves, who ~~shall not be~~ after serving [two] years in that office they shall not be capable of being re-appointed to the same during an interval of [two] years.

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The Judicial powers shall be exercised

Judicial

First by County courts & other inferior jurisdictions.

Secondly by a General Court & a High Court of Chancery.

Thirdly by a Court of Appeals.

The ~~justices~~ judges of the County courts & other inferior jurisdictions shall be appointed by the Administrator, subject to the negative of the privy council. They shall not be fewer than [five] in number their jurisdiction shall be defined from time to time by the Legislature: & they shall be removable for misbehavior by the court of Appeals.

County Courts

The judges of the General court & of the High court of Chancery shall be appointed by the Administrator and Privy council. If kept united they shall be [5] in number, if separate there shall be [*part lacking*] & [3] for the High Court of Chancery. The appointment shall be made from the faculty of the law and of such persons of that faculty as shall have actually exercised the same at ~~some~~ the bar ~~or bars~~ of some

Genl Court & Chancery

III. JUDICIARY.

The Judiciary powers shall be exercised

First, by County courts and other inferior jurisdictions:

Secondly, by a General court & a High court of Chancery:

Thirdly, by a Court of Appeals.

The judges of the county courts and other inferior jurisdictions shall be appointed by the Administrator, subject to the negative of the privy council. They shall not be fewer than [five] in number. Their jurisdictions shall be defined from time to time by the legislature: and they shall be removable for misbehavior by the court of Appeals.

County Courts, &c.

The Judges of the General court and of the High court of Chancery shall be appointed by the Administrator and Privy council. If kept united they shall be [5] in number, if separate, there shall be [5] for the General court & [3] for the High court of Chancery. The appointment shall be made from the faculty of the law, and of such persons of that faculty as shall have actually exercised the same at the bar of some

Genl. Court and High Ct. of Chancery

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court or courts of record within this colony for [seven] years. They shall hold their commissions during good behavior, for breach of which they shall be removable by the court of Appeals. Their jurisdiction shall be defined from time to time by the Legislature.

The court of Appeals shall consist of not less than [7] nor more than [11] members to be ~~chosen~~ appointed by the house of Representatves; they shall hold their offices during good behavior, for breach of which they shall be removal by an act of the legislature only. Their jurisdiction shall be to determine finally all causes removed before them from the General court or High court of Chancery on suggestion of error, to remove judges of the General court or High court of Chancery or of the County courts or other inferior jurisdictions for misbehavior: [to try impeachments against ~~of~~ high offenders ~~to be~~ lodged before them by the House of representatives for such crimes as ~~shall be hereafter defined~~ shall hereafter be precisely defined by the Legislature ~~shall hereafter define with precision and [illegible]~~ and for the punishment of which the sd

Court of Appeals

court or courts of record within this colony for [seven] years. They shall hold their commissions during good behavior, for breach of which they shall be removable by the court of Appeals. Their jurisdiction shall be defined from time to time by the Legislature.

The Court of Appeals shall consist of not less than [7] nor more than [11] members, to be appointed by the house of Representatives: they shall hold their offices during good behavior, for breach of which they shall be removable by an act of the legislature only. Their jurisdiction shall be to determine finally all causes removed before them from the General Court or High Court of Chancery, or of the county courts or other inferior jurisdictions for misbehavior: [to try impeachments against high offenders lodged before them by the house of representatives for such crimes as shall hereafter be precisely defined by the Legislature, and for the punishment of which, the said legislature shall have previously prescribed certain and determinate pains.] In this court the judges of the General court and High court of Chancery shall have

Court of Appeals

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Legislature shall have previously presented certain & determinate pains. In this court the judges of the Genl Ct., & High Ct. of Chancy shall have session and deliberative voice but no suffrage.

Juries All facts, in causes, whether of Chancery, Common, Ecclesiastical or Marine law, shall be tried by a jury upon evidence given viva voce in open court; ~~unless~~ but where witnesses are out of the colony ~~in which case their depositions may be used~~ or unable to attend ~~through by~~ through sickness or other invincible necessity, their depositions may be ~~proposed~~ submitted to the credit of the jury.

Fines All Fines & Amercements shall be ~~fixed by juries and determined~~ assessed and terms of imprisonment for Contempts ~~shall~~ or misdemeanors ~~shall~~ be fixed by the verdict of a jury.

Stile of process All process original & judicial ~~process~~ shall ~~issue~~ run in the name [*part lacking*] which it issues.

Quorum Two thirds of the members of the General Court, High court of Chancery, or Court of Appeals shall be a Quorum to proceed to business.

session and deliberative voice, but no suffrage.

Juries All facts in causes whether of Chancery, Common, Ecclesiastical, or Marine law, shall be tried by a jury upon evidence given vivâ voce, in open court: but where witnesses are out of the colony or unable to attend through sickness or other invincible necessity, their deposition may be submitted to the credit of the jury.

Fines, &c. All Fines or Amercements shall be assessed, & Terms of imprisonment for Contempts & Misdemeanors shall be fixed by the verdict of a Jury.

Process All Process Original & Judicial shall run in the name of the court from which it issues.

Quorum Two thirds of the members of the General court, High court of Chancery, or Court of Appeals shall be a Quorum to proceed to business.

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Unappropriated or Forfeited lands shall be appropriated by the Administrator ~~and~~ with the consent of the privy council. **Lands**

~~Fifty acres of la~~

Every ~~male~~ person of full age neither owning nor having owned [50] acres of land shall be entitled to an appropriation of [50] acres or to so much as shall make up what he owns or has owned [50] acres in full and absolute dominion. And no other person shall be capable of taking an appropriation.

Lands heretofore holden of the crown in fee simple and those hereafter to be appropriated shall be holden ~~of no superior by him~~ in full and absolute dominion of no superior whatever.

No lands shall be appropriated until purchased of the Indian natives proprietors nor shall any purchases be made of them but on behalf of the public by authority of acts of the General assembly to be ~~made~~ passed for every purchase specially [*part lacking*] contained within the charters erecting the colonies of Maryland, Pennsylvania, North & South Carolina, are hereby ceded & released and

IV. Rights, Private and Public.

Unappropriated or Forfeited lands shall be appropriated by the Administrator with the consent of the Privy council. **Lands**

Every person of full age neither owning nor having owned [50] acres of land, shall be entitled to an appropriation of [50] acres or to so much as shall make up what he owns or has owned [50] acres in full and absolute dominion. And no other person shall be capable of taking an appropriation.

Lands heretofore holden of the crown in fee simple, and those hereafter to be appropriated shall be holden in full and absolute dominion, of no superior whatever.

No lands shall be appropriated until purchased of the Indian native proprietors; nor shall any purchases be made of them but on behalf of the public, by authority of acts of the General assembly to be passed for every purchase specially.

The territories contained within the charters erecting the colonies of Maryland, Pennsylvania, North and South Carolina, are hereby ceeded, re-

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forever confirmed to the people of those ~~pro~~ colonies respectively with all the rights of ~~jurisdiction and~~ property, jurisdiction ~~&~~ and government and all other rights whatsoever ~~claimed now or~~ which might at any time heretofore have been claimed by this colony. The Western and Northern extent of this country shall in all other respects stand as ~~described~~ fixed by the Charter of

until by act of the Legislature ~~any new a territory or~~ one or more territories shall be laid off Westward of the Alleganey mountains for ~~the establishment of any~~ new ~~colony or~~ colonies, which ~~colony or~~ colonies ~~when established shall be free and independent of this & shall~~ shall be established on the same fundamental laws contained in this instrument & shall be free & independent of this colony and of all the world.

Descents shall go according to the laws of Gavelkind, save only that females shall have equal rights with males.

No person hereafter coming into this country shall be held in slavery under any pretext whatever. **Slaves**

All persons who by their own oath or affirmation or by

leased, & forever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction and government and all other rights whatsoever which might at any time heretofore have been claimed by this colony. The Western and Northern extent of this country shall in all other respects stand as fixed by the charter of

until by act of the Legislature one or more territories shall be laid off Westward of the Alleghaney mountains for new colonies, which colonies shall be established on the same fundamental laws contained in this instrument, and shall be free and independent of this colony and of all the world.

Descents shall go according to the laws Gavelkind, save only that females shall have equal rights with males.

No person hereafter coming into this county shall be held within the same in slavery under any pretext whatever. **Slaves**

All persons who by their own oath or affirmation, or by

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Naturalization

other testimony shall give satisfactory proof to any court of record in this colony that they purpose to reside in the same [7] years at the least and who shall subscribe the fundamental laws shall be considered as ~~a~~ residents & entitled to all the rights of ~~a~~ persons natural born.

Religion

All persons shall have full & free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution. ~~But this shall not be held to justify any seditious preaching or conversation against the authority of the civil government.~~

Arms

No freeman shall be debarred the use of arms [within his own lands or tenements].

Standing Army

There shall be no standing army but in time of actual war.

Free Press

Printing presses shall be free, except so [*part lacking*] of private injury they may give cause [*part lacking*] action.

Forfeitures

All forfeitures heretofore going to the king shall go to the state, save only such as the legislature may hereafter abolish.

Naturalization

other testimony shall give satisfactory proof to any court of record in this colony that they propose to reside in the same [7] years at the least and who shall subscribe the fundamental laws, shall be considered as residents and entitled to all the rights of persons natural born.

Religion

All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution.

Arms

No freeman shall be debarred the use of arms [within his own lands].

Standing Armies

There shall be no standing army but in time of actual war.

Free Press

Printing presses shall be free, except so far as by commission of private injury cause may be given of private action.

Forfeitures

All Forfeitures heretofore going to the king, shall go the state; save only such as the legislature may hereafter abolish.

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The royal claim to Wrecks, Waifs, Strays, Treasure-trove, royal mines, royal fish, royal birds are declared to have been usurpations on the common right.

Wrecks, &c.

No salaries or perquisites shall be given to any officer but by act of the legislature. No salaries shall be given to the Administrator, members of the ~~house of Representatives~~, Legislative houses, judges of the court of appeals, ~~justices of the peace, members of the privy council~~, judges of the County courts or other inferior jurisdictions, Privy counsellors, or delegates to the American Congress. But the reasonable expences of the Administrator, members of the house of Representatives, judges of the court of Appeals, ~~members of~~ Privy counsellors & Delegates for subsistence while acting in the duties of their office may ~~shall~~ be borne by the public if the Legislature shall so direct.

Salaries, &c.

The Qualifications of all officers ~~Civil, military Executive Judicial~~ Civil, military & Ecclesiastical shall be an oath of fidelity to the ~~governm~~ state and the having given no bribe to obtain their office.

Qualifcns of officers

The royal claim to Wrecks, waifs, strays, treasure-trove, royal mines, royal fish, royal birds, are declared to have been usurpations on common right.

Wrecks

No Salaries or Perquisites shall be given to any officer but by some future act of the legislature. No salaries shall be given to the Administrator, members of the legislative houses, judges of the court of Appeals, judges of the County courts, or other inferior jurisdictions, Privy counsellors, or Delegates to the American Congress: but the reasonable expences of the Administrator, members of the house of representatives, judges of the court of Appeals, Privy counsellors, & Delegates for subsistence while acting in the duties of their office, may be borne by the public, if the legislature shall so direct.

Salaries

No person shall be capable of acting in any office Civil, Military [or Ecclesiastical] ~~The Qualifications of all not otherwise directed, shall be an oath of fidelity to state and the having given no bribe to obtain their~~

Qualifications

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None of these fundamental laws & principles of government shall be repealed ~~or alt~~ or altered but by the personal consent of the people ~~to be~~ on summons to meet in their respective counties on one & the same day by an act of Legislature to be passed for every special occasion: and if in such county meetings the people of two thirds of the counties shall give their suffrage for any particular alteration or repeal referred to them by the said act, the same shall be accordingly repealed or altered ~~or repealed~~, and such repeal or alteration shall take it's place among these fundamental [*part lacking*] the same footting with them in lieu of the article re- [*part lacking*].

The laws heretofore in force in this colony shall remain still in force except so far as they are altered by the foregoing fundamental laws, or so far as they may be hereafter altered by acts of the legislature.

It is proposed that the above bill, after correction by the ~~office~~ who shall have given any bribe to obtain such office, or who shall not previously take an oath of fidelity to the state.

None of these fundamental laws and principles of government shall be repealed or altered, but by the personal consent of the people on summons to meet in their respective counties on one and the same day by an act of Legislature to be passed for every special occasion: and if in such county meetings the people of two thirds of the counties shall give their suffrage for any particular alteration or repeal referred to them by the said act, the same shall be accordingly repealed or altered, and such repeal or alteration shall take it's place among these fundamentals and stand on the same footing with them, in lieu of the article repealed or altered.

The laws heretofore in force in this colony shall remain in force, except so far as they are altered by the foregoing fundamental laws, or so far as they may be hereafter altered by acts of the Legislature.

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Convention, shall be referred by them to the people to be assembled in their respective counties: and that the suffrages of two third of the counties shall be requisite to establish it.

REPORT ON CEDARS CARTEL.[1] C. C.

[June 17, 1776.]

The Committee to whom were re-committed the Cartel between Brigadier General Arnold & captain Forster for the exchange of prisoners & the several papers relating thereto have had the same under their consideration and agreed to the following report.

Your committee having proceeded to make enquiry into the facts relating to the agreement entered into at St. Anne's between Brigadier General Arnold & Capt. Forster, find a part of them well authenticated and others not, yet being apprehensive that silence on the part of Congress may be construed by some into a ratification of the said agreement they have thought it best to state the same as they appear at present, with such resolutions as they will justify if found true, reserving final decision till the whole truth shall be accurately enquired into & transmitted to Congress.

Your Committee on the best information they have been able to obtain find:

That on the 24th day of May last a party of the enemy consisting as is said of about 600 men under the command of capt. Forster attacked a post at the Cedars held by a garrison of 350 Con[*tinental for*]ces, then under the command of Major Butterfield.

[1] On June 16th Congress referred this matter to Jefferson, Braxton, Paine, and Middleton. They made this report on June 17th, when it was read and laid on the table. On June 24th it was recommitted, and again reported to the Congress on July 10th, when it passed in a much modified form. *Cf. Journals of Congress*, II., 256.

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That the said post was secured by a *Stoc[kade of wood?]* to cover the garrison from the enemy's musquetry, that there were mounted therein two field pieces, & that the enemy had no cannon.

That the said garrison had ammunition & provisions sufficient to have lasted them ten days, that they had reason to expect *immediate* reinforcements *in a few days*,[1] which on a requisition from themselves, was actually on it's way from Montreal, and moreover were so near the main body of the army that they could not doubt being joined by detachments from thence sufficient to oblige the enemy to retire.

That the enemy for two days kept up only a scattering fire, by which not a single man of the garrison was killed or wounded, & that on the third day the garrison surrendered themselves prisoners of war having capitulated for the preservation of their own baggage from plunder, *& that their persons should not be deliver'd into the hands of the savages.*[1]

That the enemy broke the capitulation utterly & immediately on their part. Plundering the garrison of their baggage & stripping the cloathes from their backs, *& Delivering the Prisoners into the hands of the Savages.*[1]

That they then proceeded against the reinforcement which was on it's way consisting of about 150 men under the command of Major Sherburne, that Major Sherburne & his party engaged & fought them with bravery: but being at length surrounded by numbers greatly superior and informed that the fort and garrison were already in the hands of the enemy, they were obliged to surrender themselves prisoners of war also; but whether on capitulation or not your committee are not informed.

That after they had put themselves into the hands of the enemy, the said enemy murdered two of them, butchering the one with tomahawks & drowning the other; and left divers others exposed in an island naked & perishing with cold & famine.

That by this time Brigadier General Arnold who had been detached by Major General Thomas to relieve the fort at the Cedars, approached & was making dispositions to attack the enemy.

That capt: Forster, thereupon *notified*[1] General Arnold, that if

[1] Words in italics not in Jefferson's handwriting.

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he attacked him, the prisoners, then 500 in number, would every man of them be put to death; & proposing at the same time an exchange of [*torn out.*]

Arnold was extremely averse to entering on any agreement of that kind, & was at length induced to do it by no other motive than that of saving the prisoners from cruel & inhuman death, threatened in such terms as left no doubt it was to be perpetrated.

That agreement was thereupon entered into between Brigadr. Genl. Arnold & capt. Forster, bearing date at St. Anne's, on the 27th day of May, whereby the s̃d Forster stipulated that he would deliver up all the said prisoners except *such as were*[1] Canadians, to Genl. Arnold; who agreed on the other part that so many of equal rank & condition should be returned to the enemy of those taken by our arms on former occasions. That the prisoners so stipulated to be given up to the enemy were not in the possession of Genl. Arnold, nor under his direction but were at that time distributed through various parts of the continent under the orders of this house.

That capt. Forster in violation of this agreement also detained a considerable number of the prisoners he had thus stipulated to deliver, & sent them into the Indian countries for purposes unknown.

Whereupon your Committee have come to the following resolutions.

Resolved that it is the opinion of this Committee that plundering the baggage of the garrison at the Cedars, stripping them of their clothes, *& deliverg the Prisonr into ye hands of the Savages*[1] was a breach of the capitulation on the part of the enemy, for which satisfaction ought to be demanded.

Agreed

Resolved that the murder of two of the prisoners of war was a gross and barbarous violation of the laws of nature & nations, for which satisfaction should be made by the enemy by delivering into our hands either captain Forster or the individuals concerned in committing the murder.

Agreed

Resolved that the agreement entered into at St. Anne's was a mere sponsion on the part of Brigadr. Genl. Arnold, he not being invested with the powers for the absolute dis-

Agreed

[1] Words in italics not in Jefferson's handwriting.

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posal of the Continental prisoners in general; and that therefore it is subject to be ratified or annulled at the discretion of this house, the sole representative of the United *Colonies.*[1]

Resolved that it is the opinion of this Committee that Major Sherburne & his party having fought as men should do, so much of the said sponsion as relates to their exchange should be ratified & confirmed by this house; & that an equal number of captives from the enemy, of the same rank & condition should be restored to them as stipulated by the said sponsion.

Resolved that [*torn out*] opinion of this com. [*torn out*] the said sponsion as relates to the exchange of Major Butterfield & the garrison surrendering with him, ought not to be ratified: because we should redeem none but those who will fight, and because too the said sponsion excepted the Canadian prisoners, & we will in no case admit a distinction of countries among men fighting in the same cause.

Resolved therefore that the said Major Butterfield & garrison should still be considered as prisoners of war, appertaining to the enemy; but as by the actual murder of two of the prisoners & the threats at St. Anne's to put the others to death, the enemy are found capable of destroying their captives, the 8d prisoners ought not to be put into their hands, but should be permitted to remain in their own country; that in the meantime they shall not bear arms, nor otherwise act against the enemy, but are bound to demean themselves in all things in the manner of prisoners of war enlarged on their parole, & to hold themselves subject to be recalled by the enemy whenever proper security shall have been given that their lives shall be safe.

Resolved that previous to the delivery of the prisoners to be returned in lieu of majr. Sherburne & those captivated with him, satisfaction be required from the enemy for the murder of the two prisoners by delivering into our hands capt. Forster, or the individuals concerned in perpetrating that horrid act; and likewise restitution for the plunder at the Cedars taken contrary to

[1] Here Jefferson had written "States of America" which has been stricken out by another hand and "Colonies" written in its place.

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the faith of the capitulation; and that till such satisfaction & restitution be made, the said prisoners be not delivered.

Resolved that it is the opinion of this committee that if the enemy shall put to death, torture, or otherwise ill treat any of the hostages in their hands, or of the Canadian, or other prisoners captivated by them in the service of the United colonies, recourse must be had to retaliation as the sole means of stopping the progress of human butchery, & that for that purpose punishments of the same kind & degree be inflicted on an equal number of their subjects taken by us, till they shall be taught due respect to the violated rights of nations.

Resolved that it is the opinion of this Committee, that a copy of this report be transmitted to the Commander in chief of the Continental forces in Canada, to be by him sent to the British commander there; and that he moreover make further & diligent [*torn out*] into the facts therein stated, & such others as may [*torn out*] same subject & rel [*torn out*] same duly authenticated [*torn out*] possible despatch [*torn out*] for their final decision, & that in the mean time the prisoners delivered up by the enemy abstain from bearing arms or otherwise acting against them.[1]

REPORT ON CANADIAN AFFAIRS.[2] C. C.

[June 17, 1776.]

The Committee to whom the report from the Commee of the whole house was recommitted, have had the same under their consideration & agreed to the following resolutions.

Resolved that it is the opinion of this Committee that an experienced general be immediately sent into Canada, with power

[1] Endorsed: "Report of the Comte. on the capitulation entered into between genl Arnold & capt. Forster. No. 1 brot. in June 17, 1776, read & ordered to lie on the table, recommitted June 24, 1776, passed July 10."

[2] On May 23, 1776, Congress appointed Harrison, R. H. Lee, J. Adams, J. Wilson, and Edward Rutledge a committee to confer with Washington, Gates, and Mifflin, "upon the most speedy and effectual means for supporting the American cause in Canada." They reported to Congress the following day,

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to appoint a deputy adjutant general, a Deputy Quarter-master general, and such other officers as he shall find necessary for the good of the service, and to fill up vacancies in the army in Canada, and notify the same to Congress for their approbation. That he also have power to suspend any officer there till the pleasure of Congress be known, he giving his reasons for so doing in the orders of suspension & transmitting to Congress as soon as possible the charge against such officer. Provided that this power of suspending officers & filling up vacancies shall not be continued beyond the first day of October next.

Resolved that no officer suttle or sell to the soldiers, on penalty of being fined one month's pay & dismissed the service with infamy on conviction before a court martial.

Resolved that the baggage of Officers and soldiers be regulated conformably to the rules in the British armies.

Resolved that all sales of arms, ammunition, cloathing and accoutrements made by soldiers be void.

Resolved that no troops employed in Canada, be disbanded there: that all soldiers in Canada ordered to be disbanded, or whose times of enlistment being expired shall refuse to re-enlist, shall be sent under proper officrs to Ticonderoga or such other post on the lakes as the General shall direct, where they shall be mustered, and the arms, accoutrements, blankets, & utensils, which they may have belonging to the public shall be delivered up and deposited in the public store.

Resolved that Doctor Potts be employed in the Continental service in the Canadian department or at Lake George as the General shall think best: & that his pay be dollars per month. But

but were directed to confer further with the generals. They reported again May 29th, and on May 30th Congress resolved itself into a committee of the whole to consider the report. It was considered from time to time, a few resolutions being reported, till June 15th, when the committee of the whole reported the results of their deliberations to Congress. On the same day Congress named Jefferson, Braxton, Paine, and Middleton a committee "to digest and arrange the several resolutions agreed to in the committee of the whole." They presented the following report (which is in Jefferson's handwriting) on June 17th, and with some changes it was adopted the same day. *Cf. Journals of Congress*, June 17, 1776, and Ford's *Writings of Washington*, iv., 109.

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this appointment is not intended to interfere with the office of Doctr. Stringer.[1]

Resolved that a Deputy Muster Master General be immediately sent into Canada.

Resolved that the local Commissaries and Quarter masters appointed at the different garrisons or posts shall make weekly returns to the General of the provisions & stores in the places at which they may happen to be stationed.

Resolved that the General to be sent to Canada be directed to view Point au fer and to order a fortress to be erected there if he should think proper.

Resolved that the General officers, Deputy Quarter master general, Local commissaries, Paymaster in Canada, and all other persons there who have received public monies be ordered without delay to render and settle their accounts; on which settlement no General officer shall receive pay as Colonel of a regiment, nor Field officer as Capt. of Company.

Resolved that Commissioners be appointed to settle in Canada the debts due on Certificates given by officers to the Canadians for carriages and other services. & to settle also the accounts for such goods as may have been seized through necessity for the use of the army to be by them finally discharged & that it be given in instruction to them to attend particularly to the case of Mr. Bernard: and also that in settling the certified debts they state carefully the names of all those who have given certificates, the nature of the service, & the time when performed; to return the whole when settled & stated to the board of treasury to be by them finally examined and discharged.[2]

Resolved that the Deputy Paymaster General be directed to transmit to Congress copies of the particulars before mentioned on the original certificates, with the report & remarks of the commissioners thereon.

Resolved that General Schuyler be directed to make a good waggon road from Fort Edward to Cheshire's; to clear Wood creek & to construct a Lock at Skenesborough, so as to have a

[1] This paragraph is stricken out.

[2] This and the succeeding paragraphs are stricken out.

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continued navigation for batteaus from Cheshires into Lake Champlain; to erect a grand magazine at Cheshire's & to secure it by a stockaded fort; to erect a saw mill on Schoon creek; to order skillful persons to survey and take the level of the water's falling into Hudson's river near Fort Edward & those which fall into Wood creek & interlock with the former, particularly Jones's run & Half-way brook, the latter of which is said to discharge itself into Wood creek at Cheshire's. That he be directed to have a greater number of boats and hands kept on Hudson's river, at the different stations between Albany & Fort Edward in order to save the expence of waggonage. That he be empowered to appoint proper officers to superintend the carriage by land and transportation by water of provisions, military stores and other things into Canada, that neither waste nor delay may arise therein. That he build with all expedition as many gallies and armed vessels as in the opinion of himself & the General officer to be sent into Canada shall be sufficient to make us indisputably masters of the lakes Champlain & George: for which purpose it is the opinion of this Committee there should be sent to him a master carpenter acquainted with the construction of the gallies used on the Delaware, who should take with him other carpenters, & models also if requisite. And that it be submitted to General Schuyler whether a temporary fortification or entrenched camp either at Crown point or opposite to Ticonderoga may be necessary.

Resolved that the Commissary general be directed to supply the army in Canada with provisions, and to appoint proper officers under him to receive and issue the same at the several posts taking the directions of the General; that he be impowered to contract with proper persons in Canada for supplying the army there with fresh provisions; that he be directed to purchase a quantity of Albany peas, and to furnish as much biscuit as may be necessary; and that his pay be raised to one hundred & fifty dollars per month.

Resolved that the Quarter-master General be directed to provide & forward such tents, cloathing and utensils as are wanted for the army in Canada, subject to the direction of the Commander in chief.

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Resolved that General Washington be directed to send into Canada such small brass or iron field pieces as he can spare: that he be instructed to issue orders that no certificates be given in future by any but Brigadiers, Quarter-masters & their deputies, or a field officer on a march or officer commanding at a detached post.

Resolved that General Washington be directed to order an enquiry to be made into the conduct of the officers heretofore employed in the Canada department; that the said enquiry be made at such times and places as in his judgment shall be most likely to do justice as well to the public as to the individuals; & that the result of the said enquiry together with the testimonies upon the subject be transmitted to Congress. That moreover all officers accused of cowardice, plundering, embezzlement of public monies & other misdemeanors be immediately brought to trial, and whereas Congress is informed that an opinion has prevailed that officers resigning their commissions are not subject to trial by a Court martial for offences committed previous to such resignation, whereby some have evaded the punishments to which they were liable, it is hereby declared that such opinion is not just.

Referr'd to 18th June

Resolved that it is the opinion of this Committee that Lieutt. Colonel Burbeck be dismissed from the Continental service for disobedience of orders.[1]

Resolved that it is the opinion of this Committee that General Washington be authorized to fill up vacancies in the army by issuing Commissions to such officers under the rank of field officers as he shall think proper to supply such vacancy; he making a monthly return to Congress of such appointments which, unless disapproved of by Congress on such return, shall stand confirmed; and that blank commissions be sent to the General for that purpose.

Resolved that the pay of such of the soldiers at New York as have been enlisted at five dollars per month be raised to six dollars and two thirds per month.

Postpon'd

Resolved that letters be written to the Convention of New

[1] This and the succeeding three paragraphs are stricken out.

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Agreed

Resolved that a bounty of Ten dollars be given to every non-commissioned officer and soldier who will enlist to serve for the term of three years.

Resolved that letters be written to the Conventions of New Jersey & New York and to the Assembly of Connecticut recommending them to authorize the Commander in chief in the colony of New York, to call to the assistance of that colony (when necessity shall require it) such of the militia of those colonies as may be necessary; and to afford him such other assistance as the situation of affairs may require. And that it be further recommended to the Convention of New York to empower the said Commander in Chief to impress carriages and water craft when necessary for the public service, and also to remove ships and other vessels in Hudson's and in the East rivers for the purpose of securing them from the enemy.

Resolved that General Washington be permitted to employ the Indians whom he may take into the service of the United colonies pursuant to a resolution of Congress of the 25 May last in any place where he shall judge they will be most useful, and that he be authorized to offer them a reward of one hundred dollars for every commissioned officer, & of thirty dollars for every private soldier of the King's troops that they shall take prisoners in the Indian Country or on the frontiers of these colonies.

TO WILLIAM FLEMING.[1]

PHILADELPHIA, July 1, 1776.

DEAR FLEMING,—

Yours of 22d June came to hand this morning and gratified me much, as this with your former contains interesting intelligence.

Our affairs in Canada go still retrograde, but I hope they are now nearly at their worst. The fatal

[1] From the *Southern Literary Messenger*, III. 306.

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sources of these misfortunes have been want of hard money with which to procure provisions, the ravages of the small pox with which one half of our army is still down, and an unlucky choice of some officers. By our last letters, Genl. Sullivan was retired as far as Isle au noix with his dispirited army and Burgoyne pursuing him with one of double or treble his numbers. It gives much concern that he had determined to make a stand there as it exposes to great danger of losing him and his army; and it was the universal sense of his officers that he ought to retire. Gen. Schuyler has sent him positive orders to retire to Crown point but whether they will reach him in time enough to withdraw him from danger is questionable. Here it seems to be the opinion of all the General officers that an effectual stand may be made and the enemy not only prevented access into New York, but by preserving a superiority on the lakes we may renew our attacks on them to advantage as soon as our army is recovered from the small pox and recruited. But recruits, tho long ordered, are very difficult to be procured on account of that dreadful disorder.

The Conspiracy at New York is not yet thoroughly developed, nor has any thing transpired, the whole being kept secret till the whole is got through. One fact is known of necessity, that one of the General's lifeguards being thoroughly convicted was to be shot last Saturday. General Howe with some ships (we know not how many) is arrived at the Hook, and, as is said, has landed some horse on the

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Jersey shore. The famous major Rogers is in custody on violent suspicion of being concerned in the conspiracy.

I am glad to hear of the Highlanders carried into Virginia. It does not appear certainly how many of these people we have but I imagine at least six or eight hundred. Each effort should be made to keep up the spirits of the people the succeeding three months; which in the Universal opinion will be the only ones in which our trial can be severe.

I wish you had depended on yourself rather than others for giving me an account of the late nomination of delegates. I have no other state of it but the number of votes for each person. The omission of Harrison and Braxton and my being next to the lag give me some alarm. It is a painful situation to be 300 miles from one's country, and thereby opened to secret assassination without a possibility of self-defence. I am willing to hope nothing of this kind has been done in my case, but yet I cannot be easy. If any doubts has arisen as to me, my country will have my political creed in the form of a "Declaration" &c. which I was lately directed to draw. This will give decisive proof that my own sentiment concurred with the vote they instructed me to give. Had the post been to go a day later we might have been at liberty to communicate this whole matter.

July 2. I have kept open my letter till this morning but nothing more new. Adieu.

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DECLARATION OF INDEPENDENCE.[1]

July 4, 1776.

First Draft.	Reported Draft.	Engrossed Copy.
A Declaration by the Representatives of the United States of America in general Congress assembled.	A Declaration by the Representatives of the UNITED STATES OF AMERICA in General Congress assembled.	In Congress, July 4, 1776. The Unanimous Declaration of the thirteen United States of America.
When in the Course of human Events it becomes necessary for a People to advance from that Subordination, in which they have	When in the course of human events it becomes necessary for one people to dissolve the political bands which have con-	When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have con-

[1] The text in the first column is from a copy in the handwriting of John Adams, now in the Adams papers at Quincy, for which I am indebted to the courtesy of Mr. Charles Francis Adams and Mr. Theodore F. Dwight. From a comparison of it with the fac-simile of Jefferson's rough draft, it is evident that it represents the first phrasing of the paper. The text in the second column is approximately that reported by the committee to Congress, and is taken from Jefferson's rough draft reproduced herein in fac-simile from the original in the Department of State. The text in the third column is from the engrossed copy of the Declaration of Independence, also in the Department of State. Another MSS. copy in Jefferson's writing, slightly altered in wording, was inserted by him in his Autobiography, and is printed, *ante*, I, 30. This is in the Department of State, as is likewise a copy in his handwriting made for Madison in 1783, which is reproduced in facsimile in the *Madison Papers*, vol. III. Between July 4th–10th, Jefferson made copies of the Declaration, indicating his phrasing and that adopted by the Congress, and sent them to R. H. Lee, Wythe, Page, Pendleton, and Mazzei, and probably others. Lee gave his copy to the American Philosophical Society, where it now is. Those of Wythe, Page, and Pendleton have never been heard of. Mazzei gave his to the Countess de Tessie of France, and it has not been traced. A copy in Jefferson's writing is now owned by Dr. Thomas Addis Emmett, and a fragment of another is in the possession of Mrs. Washburn of Boston. Thus at least five copies and a fragment of a sixth are still extant. *Cf. ante*, I, 30.

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government & to provide new guards for their future security such has been the patient sufferance of these colonies, & such is now the necessity which constrains them to alter [expunge] their former systems of government the history of the present King of Great Britain is a history of repeated [unremitting] injuries and usurpations, [among which appears no solitary fact to contradict the uniform tenor of the rest, but all having [have] in direct object the establishment of an absolute tyranny over these states to prove this let facts be submitted to a candid world. [for the truth of which we pledge a faith yet unsullied by falsehood]

* Mr Adams. hand writing

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hitherto remained and to assume among the Powers of the Earth, the equal and independent Station to which the Laws of Nature and of Nature's God entitle them, a decent Respect to the opinions of Mankind requires that they should declare the Causes, which impell them to the Change.

We hold these Truths to be self evident; that all Men are created equal and independent; that from that equal Creation they derive Rights inherent and unalienable; among which are the Preservation of Life, and Liberty, and the Pursuit of Happiness; that to secure these Ends, Governments are instituted among Men, deriving their just Powers from the Consent of the governed; that

nected them with another and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident that all men are created equal; that they are endowed by their creator with inherent & inalienable rights, that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men deriving their just powers from the consent of the governed; that whenever any form of government be-

nected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.—That whenever any Form of Government be-

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whenever, any form of Government, shall become destructive of these ends, it is the Right of the People to alter, or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall Seem most likely to effect their Safety and Happiness. Prudence indeed will dictate that Governments long established should not be changed for light and transient Causes; and accordingly all Experience hath shown, that Mankind are more disposed to Suffer, while Evils are Sufferable, than to right themselves, by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, begun at a distinguish'd Period comes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their happiness. Prudence indeed will dictate that governments long established should not be changed for light and transient causes: and accordingly all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations begun at a distinguished period and pursuing invariably the same object, evinces a design comes destructive of these ends, it is the right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations pursuing invariably the same Object, evinces a design to reduce

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od, and pursuing invariably, the same object, evinces a Design to reduce them under absolute Power, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient Sufferance of these Colonies; and such is now the Necessity, which constrains them to expunge their former Systems of Government. The History of his present Majesty, is a History of unremitting Injuries and Usurpations, among which no one Fact stands Single or Solitary to contradict the uniform Tenor of the rest, all of which have in direct object, the Establishment of an absolute Tyranny over these States. To prove this, let Facts be Submitted to a candid world.

sign to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to expunge their former systems of government. The history of the present king of Great Britain is a history of unremitting injuries and usurpations, among which appears no solitary fact to contradict the uniform tenor of the rest; but all having in direct object the establishment of an absolute tyranny over these states. To prove this let facts be submitted to a candid world, for the truth of which we pledge a faith yet unsullied by falsehood.

them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this let Facts be submitted to a candid world.

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did World, for the Truth of which We pledge a Faith, as yet unsullied by falsehood.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing Importance, unless suspended in their operation, till his Assent should be obtained; and when so suspended he has neglected utterly to attend to them.

He has refused to pass other Laws for the accommodation of large Districts of People, unless those People would relinquish the Right of Representation in the Legislature, a Right inestimable to them, and formidable to Tyrants only.

He has refused his assent to laws the most wholesome and necessary for the public good:

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people unless those people would relinquish the right of representation, in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative

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He has called together legislative

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he has affected to render the military independent of & superior to the civil power:

he has combined with others to subject us to a jurisdiction foreign to our constitu-

tions and unacknoleged by our laws; giving his assent to their acts of pretended

of legislation, for quartering large bodies of armed troops among us;

for protecting them by a mock-trial from punishment for any murders which they should commit on the inhabitants of these states;

for cutting off our trade with all parts of the world;

for imposing taxes on us without our consent;

for depriving us in many cases of the benefits of trial by jury,

for transporting us beyond seas to be tried for pretenceled offences.

for abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example & fit instrument for introducing the same absolute rule into these colonies [states]

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bodies at places unusual, uncomfortable and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses, repeatedly, and continually, for opposing with manly Firmness his Invasions on the Rights of the People.

He has dissolved Representative houses repeatedly and continually for opposing with manly firmness his invasions on the right of the people:

He has dissolved Representative Houses repeatedly for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long Space of Time after such Dissolutions, to cause others to be elected, whereby the legislative Powers, incapable of annihilation, have returned to the People at large for their Exercise, the state remaining in the mean Time, exposed to all the Dangers of Invasion, from without, and Convulsions within—

He has refused for a long time after such dissolutions to cause others to be elected whereby the legislative powers incapable of annihilation, have returned to the people at large for their exercise, the state remaining in the mean time exposed to all the dangers of invasion from without and convulsions within:

He has refused for a long time after such dissolutions to cause others to be elected, whereby the Legislative powers, incapable of Annihilation have returned to the People at large for their exercise, the State remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the

He has endeavored to prevent the

He has endeavoured to prevent the

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Population of these States; for that purpose obstructing the Laws for naturalization of foreigners; refusing to pass others to encourage their Migrations hither; and raising the Conditions of new Appropriations of Lands.

He has suffered the Administration of Justice totally to cease in some of these Colonies, refusing his Assent to Laws for establishing Judiciary Powers.

He has made our Judges dependent on his Will alone, for the Tenure of their offices, and amount of their Salaries:

He has created a Multitude of new offices by a Self-assumed Power, and sent hither swarms of officers to harrass our People and eat out their Substance.

population of these states, for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither; and raising the conditions of new appropriations of lands:

He has suffered the administration of justice totally to cease in some of these states, refusing his assent to laws for establishing judiciary powers:

He has made judges dependant on his will alone, for the tenure of their offices and the amount and payment of their salaries:

He has erected a multitude of new offices by a self assumed power and sent hither swarms of officers to harass our people and eat out their substance:

population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

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He has kept among us, in Times of Peace, Standing Armies and Ships of War.

He has affected to render the military, independent of, and Superiour to, the civil Power.

He has combined with others to subject us to a Jurisdiction foreign to our Constitution and unacknowledged by our Laws; giving his Assent to their pretended Acts of Legislation; for quartering large Bodies of armed Troops among us; for protecting them by a Mock Tryal from Punishment for any Murders they should commit on the Inhabitants of these States; for cutting off our Trade with all Parts of the World; for imposing Taxes on us without our Consent; for depriving

He has kept among us in times of peace, standing armies and ships of war without the consent of our legislatures:

He has affected to render the military, independent of and superior to the civil power:

He has combined with others to subject us to a jurisdiction foreign to our constitutions and unacknowledged by our laws, giving his assent to their acts of pretended legislation, for quartering large bodies of armed troops among us; for protecting them by a mock trial from punishment for any murders which they should commit on the inhabitants of these states; for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us in many

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:—For quartering large bodies of armed troops among us:—For protecting them, by a mock Trial from punishment for any Murders which they should commit on the Inhabitants of these States:—For cutting off our trade with all parts of the world:—For imposing Taxes on us without our Consent:—For

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Us of the Benefits of Trial by Jury; for transporting us beyond Seas to be tried for pretended offenses; for taking away our Charters, and altering fundamentally the Forms of our Government; for suspending our own Legislatures and declaring themselves invested with Power to legislate for us in all Cases whatsoever.

cases of the benefits of trial by jury; for transporting us beyond seas to be tried for pretended offences; for abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies; for taking away our charters, abolishing our most valuable laws, and fundamentally the forms of our governments, for suspending our own legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever:

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He has abdicated Government here, withdrawing his

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He has abdicated Government here by declaring us out of

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by murdering the people upon whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.]

in every stage of these oppressions" we have petitioned for redress in the most humble terms", our repeated petitions" have been answered only by repeated injuries. a prince whose character is thus marked by every act which may define a tyrant," is unfit to be the ruler of a free people [who mean to be free" future ages will scarce believe that the hardiness of one man adventured within the short compass of twelve years only, ~~to lay~~ build a foundation so broad & undisguised, for tyranny ~~upon the ruins of the public liberty~~, over a people fostered & fixed in principles of ~~liberty~~ freedom.]

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Governors, and declaring us, out of his Allegiance and Protection.

He has plundered our Seas, ravaged our Coasts, burnt our towns, and destroyed the Lives of our People.

He is at this Time transporting large Armies of foreign Mercenaries to complete the Works of death, Desolation, and Tyranny, already begun with Circumstances of Cruelty and Perfidy unworthy the Head of a civilized Nation.

He has endeavoured to bring on the Inhabitants of our Frontiers, the merciless Indian Savages, whose known Rule of Warfare is an undistinguished Destruction of all Ages, Sexes, and Conditions of existence.

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He has plundered our seas, ravaged our coasts, burnt our towns and destroyed the lives of our people :

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation :

He has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence.

his Protection, and waging war against us :—

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the Lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has excited domestic insurrection among us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages,

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He has incited treasonable Insurrections of our Fellow Citizens, with the allurement of Forfeiture and Confiscation of our Property.

He has incited treasonable insurrections of our fellow-citizens, with the allurements of forfeiture and confiscation of our property:

He has constrained others, taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands:

He has waged cruel War against human Nature itself, violating its most sacred Rights of Life and Liberty in the Persons of a distant People who never offended him, captivating and carrying them into Slavery in another Hemisphere, or to incur miserable Death, in their Transportation thither. This piratical Warfare, the opprobrium of infidel Powers, is the Warfare of the

He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of distant people, who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian

sexes and conditions.

He has constrained our fellow citizens taken Captive on the high Seas, to bear arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

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Christian King of Great Britain.

He has prostituted his Negative for Suppressing every legislative Attempt to prohibit or to restrain an execrable Commerce, determined to keep open a Markett where Men should be bought and sold. and that this assemblage of Horrors might want no Fact of distinguished Die

He is now exciting those very People to rise in Arms among us, and to purchase their Liberty of which he has deprived them, by murdering the People upon whom he also obtruded them: thus paying off, former Crimes committed against the Liberties of one People, with Crimes which he urges them to commit against the Lives of another.

In every stage of these oppressions we have petitioned for

king of Great Britain. Determined to keep open a market where Men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce: and that this assemblage of horrors might want no fact of distinguished dye, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them by murdering the people upon whom he also obtruded them; thus paying off former crime committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.

In every stage of these oppressions we have petitioned

In every stage of these Oppressions We have Petitioned

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redress, in the most humble Terms ; our repeated Petitions have been answered by repeated Injury. A Prince, whose Character is thus marked by every Act which may define a Tyrant, is unfit to be the Ruler of a People who mean to be free.— future ages will scarce believe, that the Hardiness of one Man, adventured, within the Short Compass of twelve years only, on so many Acts of Tyranny, without a Mask, over a People, fostered and fixed in the Principles of Liberty.

Nor have we been wanting in Attentions to our British Brethren. We have warned them from Time to Time of attempts of their Legislature to extend a Jurisdiction over these our States. We have

for redress in the most humble terms ; our repeated petitions have been answered only by repeated injuries. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a people who mean to be free. Future ages will scarce believe that the hardiness of one man adventured within the short compass of twelve years only, to build a foundation, so broad and undisguised for tyranny over a people fostered and fixed in principles of freedom.

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over these our states.

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A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded

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& all others who may hereafter claim by, through, or under them; we utterly dissolve ~~& break off~~ all political connection which may ~~have~~ heretofore have subsisted between us & the people or parliament of Great Britain; and finally we do assert and declare these colonies to be free and independant states and that as free & independant states they ~~shall hereafter~~ have full power to levy war conclude peace, contract alliances, establish commerce, & to do all other acts and things which independant states may of right do And for the support of this declaration] we mutually pledge to each other our lives, our fortunes, & our sacred honour.

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reminded them of the Circumstances of our Emigration and Settlement here, no one of which could warrant so strange a Pretension. That these were effected at the expense of our own Blood and Treasure, unassisted by the Wealth or the Strength of Great Britain; that in constituting indeed, our Several Forms of Government, we had adopted one common King, thereby laying a Foundation for Perpetual League and Amity with them; but that Submission to their Parliament, was no Part of our Constitution, nor ever in Idea, if History may be credited; and we appealed to their Nature, Justice and Magnanimity, as well as to the Ties of our common Kindred to disavow these usurpations,

We have reminded them of the circumstances of our emigration and settlement here, no one of which could warrant so strange a pretension: that these were effected at the expence of our own blood and treasure, unassisted by the wealth or strength of Great Britain: that in constituting indeed our several forms of government, we had adopted a common king, thereby laying a foundation for perpetual league and amity with them: but that submission to their parliament was no part of our constitution nor ever in idea, if history be credited; and we have appealed to their native justice and magnanimity, as well as to the ties of our common kindred, to disavow these usurpations which were likely to interrupt our connection and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must therefore acquiesce in the necessity which denounces our separation and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

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which were likely to interrupt our Correspondence and Connection. They too have been deaf to the Voice of Justice and of Consanguinity, and when occasions have been given them by the regular Course of their Laws of removing from their Councils, the Disturbers of our Harmony, they have by their free Election, re-established them in Power. At this very Time too, they are permitting their Chief Magistrate to send over not only soldiers of our common Blood, but Scotch and foreign Mercenaries, to invade and deluge us in Blood. These Facts have given the last Stab to agonizing affection, and manly Spirit bids us to renounce forever these unfeeling Brethren. We must endeavour to forget our former nection and correspondence. They too have been deaf to the voice of justice and of consanguinity, and when occasions have been given them, by the regular course of their laws of removing from their councils the disturbers of our harmony, they have by their free elections re-established them in power. At this very time they are permitting their chief magistrate to send over not only soldiers of our own blood, but Scotch and other foreign mercenaries, to invade and destroy us. These facts have given the last stab to agonizing affections, and manly spirit bids us to renounce forever these unfeeling brethren. We must endeavor to forget our former love for them, to hold them as we hold the rest of mankind enemies

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Love for them, and to hold them, as we hold the rest of Mankind, enemies in War, in Peace Friends. We might have been a free and a great People together but a Communication of Grandeur and of Freedom it seems is below their Dignity. Be it so, since they will have it: The Road to Happiness and to Glory is open to us too; we will climb it, apart from them, and acquiesce in the Necessity which denounces our eternal Separation.

We therefore the Representatives of the United States of America in General Congress assembled, do, in the Name, and by the Authority of the good People of these States, reject and renounce all Allegiance and Subjection to the Kings of Great Britain, and all others, who may hereafter

We might have been a free and a great people together; but a communication of grandeur and of freedom it seems, is below their dignity. Be it so, since they will have it: the road to happiness and to glory is open to us too; we will climb it apart from them, and acquiesce in the necessity which denounces our eternal separation!

We therefore the representatives of the United States in General Congress assembled in the name and by authority of the good people of these states, reject and renounce all allegiance and subjection to the kings of Great Britain and all others who may hereafter claim by,

We, therefore, the Representatives of the United States of America, in General Congress Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and

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claim by, through, or under them; We utterly dissolve and break off, all political Connection which may have heretofore subsisted between us and the People or Parliament of Great Britain, and finally we do assert and declare these Colonies to be free and independent States, and that as free and independent States they shall hereafter have Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which independent States may of Right do. And for the Support of this Declaration, we mutually pledge to each other our Lives, our Fortunes, and our Sacred Honour.

through, or under them; we utterly dissolve all political connection which may heretofore have subsisted between us and the people or parliament of Great Britain, and finally we do assert and declare these colonies to be free and independant, and that as free and independant states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration we mutually pledge to each other our lives, our fortunes, and our sacred honour.

declare, that these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent states, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.

And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

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TO RICHARD HENRY LEE.[1]

PHILADELPHIA, July 8th, 1776.

DEAR SIR,—For news, I refer you to your brother, who writes on that head. I enclose a copy of the Declaration of Independence, as agreed to by the House, and also as originally framed: you will judge whether it is the better or worse for the critics. I shall return to Virginia after the 11th of August. I wish my successor may be certain to come before that time: in that case, I shall hope to see you, and not Wythe, in convention, that the business of government, which is of everlasting concern, may receive your aid. Adieu, and believe me to be your friend and servant.

TO GEORGE WYTHE.[2]

[July ? 1776.]

The dignity and stability of government in all its branches, the morals of the people, and every blessing of society, depend so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislature and executive, and independent upon both, that so it may be a check upon both, as both should be checks upon that. The judges, therefore, should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness and attention; their minds should not be distracted with

[1] From Lee's *Life of R. H. Lee*, I, 275.
[2] A fragment from *The Balance*, II, 146.

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jarring interests; they should not be dependent upon any man or body of men. To these ends they should hold estates for life in their offices, or, in other words, their commissions should be during good behavior, and their salaries ascertained and established by law.

For misbehavior, the grand inquest of the colony, the house of representatives, should impeach them before the governor and council, when they should have time and opportunity to make their defence; but if convicted, should be removed from their offices, and subjected to such other punishment as shall be thought proper.

NOTES OF RULES FOR CONTINENTAL CONGRESS.[1] J. MSS.

[July, 1776]

No person to read printed papers.
Every colony present, unless divided, to be counted.
No person to vote unless present when question put.
No person to walk while question putting.
Every person to sit while not speaking.
Orders of day at 12 o'clock.
Amendments first proposed to be first put.
Commit. or officers to be named before balot.
Call of the house every morn. absentees to be noted & ret'd to Convent.
No members to be absent without leave of house or written ord. of Conventn on pain of being ret'd to Conventn.

[1] On June 10th, Rutledge, Jefferson, and Paine were appointed a committee to "draw up rules and regulations for the conduct of the house, during debate," and they reported a plan on July 10th, which after consideration and amendment was adopted July 17th. These rough notes though undated, are clearly, from their similarity to the rules so adopted, those used by the committee.

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TO EDMUND PENDLETON.[1]

[July, 1776]

I am sorry the situation of my domestic affairs, renders it indispensably necessary that I should solicit the substitution of some other person here in my room. The delicacy of the House will not require me to enter minutely into the private causes which render this necessary. I trust they will be satisfied. I would not urge it again, were it not unavoidable. I shall with cheerfulness continue my duty here till the expiration of our year by which time I hope it will be convenient for my successor to attend.

RESOLUTION FOR ROTATION OF MEMBERS OF CONTINENTAL CONGRESS.[2] J.MSS.

[July, 1776?]

To prevent every danger which might arise to American freedom by continuing too long in office the members of the Continental Congress, to preserve to that body the confidence of their friends, and to disarm the malignant imputation of their enemies: It is earnestly recommended to the several Provinces, Assemblies or Conventions of the United colonies that in their future elections of delegates to the Continental Congress one half at least of the persons chosen be such as were not of the delegation next preceeding, and the residue be of such as shall not have served in that office longer than two years. And that their deputies be chosen for one year, with power to adjourn themselves from time to time & from place to place as occasions may require, and also to fix the time & place at which their successors shall meet.

[1] A fragment from Girardin's *History of Virginia*, IV.

[2] This resolution is not dated, and is apparently not entered in the *Journal of the Continental Congress*. It was probably offered in July, 1776, when Congress was establishing rules for its own guidance, and rejected.

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TO FRANCIS EPPES.[1]

PHILADELPHIA, July 15th, 1776.

Dear Sir,—Yours of the 3rd inst. came to day. I wish I could be better satisfied on the point of Patty's recovery. I had not heard from her at all for two posts before, and no letter from herself now. I wish it were in my power to return by way of the Forest, as you think it will be impracticable for Mrs. Eppes to travel to the mountains. However, it will be late in August before I can get home, and our Convention will call me down early in October. Till that time, therefore, I must defer the hope of seeing Mrs. Eppes and yourself. Admiral Howe is himself arrived at New York, and two or three vessels, supposed to be of his fleet, were coming in. The whole is expected daily.

Washington's numbers are greatly increased, but we do not know them exactly. I imagine he must have from 30 to 35,000 by this time. The enemy the other day ordered two of their men-of-war to hoist anchor and push by our batteries up the Hudson River. Both wind and tide were very fair. They passed all the batteries with ease, and, as far as is known, without receiving material damage; though there was an incessant fire kept up on them. This experiment of theirs, I suppose, is a prelude to the passage of their whole fleet, and seems to indicate an intention of landing above New York. I imagine General Washington, finding he cannot prevent their going up the river, will prepare to amuse them wherever they shall

[1] From Randall's *Life of Jefferson*, III, 582.

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go. Our army from Canada is now at Crown Point, but still one half down with the smallpox. You ask about Arnold's behavior at the Cedars. It was this. The scoundrel, Major Butterfield, having surrendered three hundred and ninety men, in a fort with twenty or thirty days' provision, and ammunition enough, to about forty regulars, one hundred Canadians, and five hundred Indians, before he had lost a single man—and Maj. Sherburne, who was coming to the relief of the fort with one hundred men, having, after bravely engaging the enemy an hour and forty minutes, killing twenty of them and losing twelve of his own, been surrounded by them, and taken prisoners also—Gen. Arnold appeared on the opposite side of the river and prepared to attack them. His numbers I know not, but believe they were about equal to the enemy. Capt. Foster, commander of the king's troops, sent over a flag to him, proposing an exchange of prisoners for as many of the king's in our possession, and, moreover, informed Arnold that if he should attack, the Indians would put every man of the prisoners to death. Arnold refused, called a council of war, and, it being now in the night, it was determined to attack next morning. A second flag came over; he again refused, though in an excruciating situation, as he saw the enemy were in earnest about killing the prisoners. His men, too, began to be importunate for the recovery of their fellow-soldiers. A third flag came, the men grew more clamorous and Arnold, now almost raving with rage and compassion, was obliged to consent to the exchange and six days suspension of hostilities, Foster declaring he had not boats to deliver them in

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less time. However, he did deliver them so much sooner as that before the six days were expired, himself and party had fled out of all reach. Arnold then retired to Montreal. You have long before this heard of Gen. Thompson's defeat. The truth of that matter has never appeared till lately. You will see it in the public papers. No men on earth ever behaved better than ours did. The enemy behaved dastardly. Col. Allen (who was in the engagement) assured me this day, that such was the situation of our men, half way up to the thighs in mud for several hours, that five hundred men of spirit must have taken the whole; yet the enemy were repulsed several times, and our people had time to extricate themselves and come off. It is believed the enemy suffered considerably. The above account of Arnold's affair you may rely on, as I was one of a committee appointed to inquire into the whole of that matter, and have it from those who were in the whole transaction, and were taken prisoners.

My sincere affections to Mrs. Eppes, and adieu.

TO THE PENNSYLVANIA CONVENTION.[1] J. MSS.

PHILADA, July 15, 1776.

Sir,—The honble the convention of Virga attending to the inconveniencies which may arise from an unsettled jurisdn in the neighborhood of fort pitt, have instructed us to propose to your honorable house to agree on some temporary boundary which may

[1] This is copied from a rough draft, which has no address, but the following note from the Minutes of the Convention, as printed in the *Philadelphia Even-*

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serve for preservation of the peace in that territory until an amicable and final determination may be had before arbiters mutually chosen. Such temporary settlement will from its nature do predjudice to neither party when at any future day a complete informn of facts shall enable them to submit the doubt to a just & final decision. We can assure you that the colony of Virga does not entertain a wish that one inch should be added to theirs from the territory of a sister colony & we have a perfect confidence that the same just sentiments prevails in your house. Parties thus disposed can scarcely meet with difficulty in adjusting either a temporary or a final settlement. The decision, whatever it be, will not annihilate the lands. They will remain to be occupied by Americans & whether these be counted in the numbers of this or that of the United States will be thought a matter of little moment. We shall be ready to confer on this subject with any gentleman you may please to appoint for that purpose & am Sir, with every sentiment of respect.

NOTES ON VIRGINIA–PENNSYLVANIA BOUNDARY. J. MSS.

[July, 1776.]

If the Monongahela is the line it will throw 300 Virginia families into Pennsylva. Most of these live below the Yohiogany & Monongahela. Not one third of that number of Pennsylvanians would be thrown on the Virginia side.

ing Post of August 6, 1776, shows to whom it was written: "A letter was read from the Delegates of the state of Virginia, now in Congress, proposing 'a temporary line'; the same being considered, it was ordered 'that further consideration thereof be deferred.'" Nor does the proposition ever seem to have been voted upon.

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If the Laurel hill is the boundary it will place on the Virginia side all the Virginia settlers, & about 200 families of Pennsylvania settlers.

A middle line is thought to be just. Braddock's old road crosses the Yohiogany in the Allegany mountain. Then turns along by the head of the Redstone on the West side of the Yohiogany & crosses the Laurel hill about 6 miles from Stewart's (or Hart's) crossing, then crosses the river at Stewart's crossing, Jacob's creek 4 m above mouth, Swiglie[1] 5 m above mouth, then goes down to the Monongahela about 2 m below the mouth of Yohiogany then recrosses it within a mile & there stopped. A line then run from the mouth of the Turtle cr. to the mouth of the first creek that empties into the Allegany above Croghans.

This would give tolerable satisfaction to Virginia, would throw about 150 Pennsylvas into Virga & about 20 or 30 Virginians into Pennsylvana. The 150 Pennsylvs live in such manner dispersed on the Yohiogany and Monongahela that no line will throw them into Pennsylva.

If Braddock's road cannot be established, the Laurel hill & Yohiogany might do without great uneasiness, & so from the mouth of the Turtle as before.

TO THE GOVERNOR OF VIRGINIA.[2] J. MSS.

(PATRICK HENRY.)

[PHILA., July 16, 1776.]

We were informed a few weeks ago that 5000 lb. of lead imported by our colony were landed at Fredsbgh. As it appeared very unlikely it should be wanting in Virga, and the flying camp forming in the Jerseys, in the face of a powerful enemy, are likely to be in distress for this article, we thought we should be wanting to the public cause, which includes that

[1] Sewickly Creek.

[2] This and the following letter, printed from rough drafts in Jefferson's handwriting, were evidently intended to be signed by the whole Virginia delegation.

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of our own country, had we hesitated to desire it to be brought here. Had the wants of the camp admitted the delay of an application to you we should most certainly have waited an order from you, but their distress is instantaneous. Even this supply is insufficient. The army in Canada, & the army in N. York will want much lead & there seems to be no certain source of supply unless the mine in Virga can be rendered such. We are therefore by direction of Congress to beg further you will be pleased to send them what lead can be spared from Wmburgh, and moreover order 15 or 20 tons to be brought here immediately from the mine.

We take the liberty of recommending the lead mines to you as an object of vast importance. We think it impossible they can be worked to too great an extent. Considered as perhaps the sole means of supporting the American cause, they are inestimable. As an article of commerce to our colony, too, they will be valuable; & even the waggonage, if done either by the colony or individuals belonging to it, will carry to it no trifling sum of money. We enclose you a resoln of Congress of the subjects of forts & garrisons on the Ohio.

Several vacancies having happened in our battalions, we are unable to have them filled for want of a list of the officers stating their seniority. We must beg the favor of you to furnish us with one. We received from Colo. R. H. Lee a resolution of Convention recommending us to endeavor that the promotions of the officers be according to seniority without regard to

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regiments or companies. In one instance indeed the Congress reserved to themselves a right of departing from seniority; that is where a person either out of the line of command, or in an inferior part of it, has displayed eminent talents. Most of the general officers have been promoted in this way. Without this reservation the whole continent must have been supplied with general officers from the Eastern colonies, where a large army was formed & officered before any other colony had occasion to raise troops at all, & a number of experienced, able & valuable officers must have been lost to the public merely from the locality of their situation.

The resolution of our Convention on the subject of salt we shall lay before Congress. The Convention of Pennsylva did not proceed to business yesterday for want of a quorum. As soon as they do we shall lay before them the proposition from our convention on the differences at fort pitt, & communicate to you the result.

We are your Excys.

TO COL. FIELDING LEWIS. J. MSS.

PHILADELPHIA, July 16, 1776.

We were informed a few weeks ago that 5000 lb. of lead imported on acct. of our colony were landed at Fredsbgh. There appears scarcely a possibility it should be wanting in Virga., more especially when we consider the supplies which may be expected from the mines of that colony. The flying camp now

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forming in the Jerseys & which will be immediately in the face of a powerful enemy is likely to be in great want of that article. Did their wants admit of delay of an application to the governor we should have applied to him & have not a doubt he would order it hither. But circumstances are too pressing, & we are assured we should incur the censures of our country were we to permit the public cause to suffer essentially while the means of preventing it (tho not under our immediate charge) are within our reach. We therefore take the liberty of desiring you to stop so many of the powder waggons now on their way to Wmsburgh as may be necessary & return them immediately with this lead, & whatever more you can collect sending the powder on by other waggons. But should the lead have been sent to Wmsburgh the waggons may then proceed on their Journey & the Govr. to whom we have written will take care of the matter.[1]

TO JOHN PAGE.[2]

PHILADELPHIA, July 20, 1776.

DEAR PAGE,—On the receipt of your letter we enquired into the probability of getting your seal done here. We find a drawer and an engraver here both of whom we have reason to believe are excellent in their way. They did great seals for Jamaica and Barbadoes both of which are said to have been well

[1] *Cf. Journals of Congress*, 14 July, 1776.

[2] From the *New England Historical and Genealogical Register*, XX, 69.

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done, and a seal for the Philosophical society here which we are told is excellent. But they are expensive, and will require two months to complete it. The drawing the figures for the engraver will cost about 50 dollars, and the engraving will be still more. Nevertheless as it would be long before we could consult you and receive an answer, as we think you have no such hands, and the expence is never to be iucurred a second time we shall order it to be done. I like the device of the first side of the seal much. The second I think is too much crowded, nor is the design so striking. But for god's sake what is the "*Deus nobis haec otia facit*"? It puzzles every body here; if my country really enjoys that *otium*, it is singular, as every other colony seems to be hard struggling. I think it was agreed on before Dunmore's flight from Gwyn's island so that it can hardly be referred to the temporary *holiday* that has given you. This device is too ænigmatical, since it puzzles now, it will be absolutely insoluble fifty years hence.

I would not advise that the French gentlemen should come here. We have so many of that country, and have been so much imposed on, that the Congress begins to be sore on that head. Besides there is no prospect of raising horse this way. But if you approve of the Chevalier de St. Aubin, why not appoint him yourselves, as your troops of horse are Colonial not Continental?

The 8th battalion will no doubt be taken into Continental pay from the date you mention. So also will be the two written for lately to come to the

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Jersies. The 7th should have been moved in Congress long e'er now, but the muster roll sent us by Mr. Yates was so miserably defective that it would not have been received, and would have exposed him. We therefore desired him to send one more full, still giving it the same date, and I enclosed him a proper form. If he is diligent we may receive it by next post.

The answer to your public letter we have addressed to the governor.

There is nothing new here. Washington's and Mercer's camps recruit with amazing slowness. Had they been reinforced more readily something might have been attempted on Staten Island. The enemy there are not more than 8, or 10,000 strong. Ld. Howe has recd. none of his fleet, unless some Highlanders (about 8, or 10 vessels) were of it. Our army at Tyonderoga is getting out of the small pox. We have about 150 carpenters I suppose got there by now. I hope they will out-build the enemy, so as to keep our force on the lake superior to theirs. There is a mystery in the dereliction of Crown-point. The general officers were unanimous in preferring Tyonderoga, and the Field officers against it. The latter have assigned reasons in their remonstrance which appear unanswerable, yet every one acquainted with the ground pronounce the measure right without answering these reasons.

Having declined serving here the next year, I shall be with you at the first session of our assembly. I purpose to leave this place the 11th of August, having so advised Mrs. Jefferson by last post, and every

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letter brings me such an account of the state of her health, that it is with great pain I can stay here till then. But Braxton purposing to leave us the day after tomorrow, the colony would be unrepresented were I to go, before the 11th. I hope to see Col. Lee and Mr. Wythe here. Tho' the stay of the latter will I hope be short, as he must not be spared from the important department of the law. Adieu, adieu.

TO FRANCIS EPPES.[1]

PHILADELPHIA, July 23, 1776.

DEAR SIR,—We have nothing new here now but from the southward. The successes there I hope will prove valuable here, by giving new spirit to our people. The ill successes in Canada had depressed the minds of many; when we shall hear the last of them I know not; everybody had supposed Crown Point would be a certain stand for them, but they have retreated from that to Ticonderoga, against everything which in my eye wears the shape of reason. When I wrote you last, we were deceived in General Washington's numbers. By a return which came to hand a day or two after, he then had but 15,000 effective men. His reinforcements have come in pretty well since. The flying camp in the Jerseys under General Mercer begins to form, but not as fast as exigencies require. The Congress have, therefore, been obliged to send for two of our battallions from Virginia. I hope that country is

[1] From Randall's *Life of Jefferson*, III. 582.

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perfectly safe now; and if it is, it seems hardly right that she should not contribute a man to an army of 40,000 and an army too on which was to depend the decision of all our rights. Lord Howe's fleet has not yet arrived. The first division sailed five days before he did, but report says it was scattered by a storm. This seems probable, as Lord Howe had a long passage. The other two divisions were not sailed when he came away. I do not expect his army will be here and fit for action till the middle or last of August; in the meantime, if Mercer's camp could be formed with the expedition it merits, it might be possible to attack the present force from the Jersey side of Staten Island, and get rid of that beforehand; the militia go in freely, considering they leave their harvest to rot in the field.

I have received no letter this week, which lays me under great anxiety. I shall leave this place about the 11th of next month. Give my love to Mrs. Eppes, and tell her that when both you and Patty fail to write me, I think I shall not be unreasonable in insisting she shall.

TO JOHN PAGE.[1]

PHILADELPHIA, Aug. 5, 1776.

DEAR PAGE,—I am sorry to hear that the Indians have commenced war, but greatly pleased you have been so decisive on that head. Nothing will reduce those wretches so soon as pushing the war into the

[1] From a copy courteously furnished by Mr. Cassius F. Lee, of Alexandria, Va.

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heart of their country. But I would not stop there. I would never cease pursuing them while one of them remained on this side the Mississippi. So unprovoked an attack & so treacherous a one should never be forgiven while one of them remains near enough to do us injury. The Congress having had reason to suspect the Six nations intended war, instructed their commissioners to declare to them peremptorily that if they chose to go to war with us, they should be at liberty to remove their families out of our settlements, but to remember that they should not only never more return to their dwellings on any terms but that we would never cease pursuing them with war while one remained on the face of the earth; & moreover, to avoid equivocation, to let them know they must recall their young men from Canada, or we should consider them as acting against us nationally. This decisive declaration produced an equally decisive act on their part; they have recalled their young men, & are stirring themselves with anxiety to keep their people quiet, so that the storm we apprehended to be brewing there it is hoped is blown over. Colo. Lee being unable to attend here till the 20th inst I am under the painful necessity of putting off my departure, notwithstanding the unfavorable situation of Mrs Jefferson's health. We have had hopes till to-day of receiving an authentication of the next year's delegation, but are disappointed. I know not who should have sent it, the Governor, or President of Convention: but certainly somebody should have done it. What will be the consequence I know not. We cannot be ad-

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mitted to take our seat on any precedent or the spirit of any precedent yet set! According to the standing rules not only an authentic copy will be required, but it must be entered in the journals verbatim that it may there appear we have right to sit. This seems the more necessary as the quorum is then to be reduced. Some of the newspapers indeed mention that on such a day such & such gentlemen were appointed to serve for the next year, but could newspaper evidence be received. They could not furnish the form of the appointment, not yet that quorum is to be admitted.

Ld. Howe is recruiting fast. Forty odd ships arrived the other day, & others at other times. It is questionable whether our recruits come in so speedily as his. Several valuable West Indian men have been taken & brought in lately, & the spirit of privateering is gaining ground fast. No news from Ticonderoga. I enclose you (to amuse your curiosity) the form of the prayer substituted in the room of the prayer for the King by Mr. Duché, chaplain to the Congress. I think by making it so general as to take in Conventions, assemblies, &c., it might be used instead of that for the parliament. Adieu.

TO FRANCIS EPPES.[1]

PHILADELPHIA, Aug. 9th, 1776.

DEAR SIR,—As Col. Harrison was about to have some things packed, I set out upon the execution of your glass commission, and was surprised to find that

[1] From Randall's *Life of Jefferson*, III, 584.

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the whole glass stores of the city could not make out anything like what you desired. I therefore did what I thought would be best, imagining you wanted the number you mentioned at any event, and that not being able to get them of that form, you would take them of any other. I therefore got 4 pint cans, 10s; 2 quart do. 8s; and six half-pint tumblers, 6s., all of double flint. So that there still remains in my hands £4 16s., Pennsylva currcy.

Your teckle is not yet come. It seems the man who had promised to sell it to the gentleman I employed to get it, now raises some difficulties either to get off others which he calls the set, or to enhance the price. However, the gentleman still expects it, and I am after him every day for it. Our galleys at New York have had a smart engagement with the men-of-war which went up the river; it is believed the enemy suffered a good deal. The galleys are much injured, though we lost but two men. The commander writes us word he retired, that he might go and give them another drubbing, which in plain English meant, I suppose, that he was obliged to retire. Gen. Washington commends the behavior of the men much. They lay pretty close to the enemy, and two of the galleys were exposed to the broadside of their ships almost the whole time. The damage done them proves they were in a warm situation. Madison (of the college) and one Johnson, of Augusta, were coming passengers in the New York Packet; they were attacked by one of our armed vessels, and nothing but the intervention of night

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prevented the packet being taken. She is arrived at New York, and they permitted to come. In a letter by them, we have intelligence that the French ministry is changed, the pacific men turned out, and those who are for war, with the Duke de Choiseul at their head, are taken in. We have also the king's speech on the prorogation of parliament, declaring he will see it out with us to the bitter end.

The South Carolina army with Clinton Sr., arrived at Staten Island last week, one of their transports, with 5 companies of Highlanders, having first fallen into General Lee's hands. They now make Lord Howe 12,000 strong. With this force he is preparing to attack. He is embarking his cannon; has launched 8 galleys, and formed his men-of-war into line of battle. From these circumstances, it is believed the attack of New York will be within three or four days. They expect with the utmost confidence to carry it, and they consider our army but as a rude undisciplined rabble. I hope they will find it a Bunker's Hill rabble. Notwithstanding these appearances of attack, there are some who believe, and with appearance of reason, that these measures are taken by the enemy to secure themselves and not to attack us. A little time will shew. General Arnold (a fine sailor) has undertaken to command our fleet on the lakes. The enemy are fortifying Oswego, and I believe our army there, when recovered from their sickness, will find they have lost a good campaign, though they have had no battle of moment.

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My love to Mrs. Eppes. I hope my letter by last post got there time enough to stay Patty with her a while longer. Adieu.

TO ——— [1]

PHILADELPHIA. Aug 13. 1776.

Dear Sir,—Your's of Aug. 3. came to hand yesterday; having had no moment to spare since, I am obliged to set down to answer it at a Committee table while the Committee is collecting. My thoughts therefore on the subject you propose will be merely extempore. The opinion that our lands were allodial possessions is one which I have very long held, and had in my eye during a pretty considerable part of my law reading which I found always strengthened it. It was mentioned in a very hasty production, intended to have been put under a course of severe correction, but produced afterwards to the world in a way with which you are acquainted. This opinion I have thought & still think to prove if ever I should have time to look into books again. But this is only meant with respect to the English law as transplanted here. How far our acts of assembly or acceptance of grants may have converted lands which were allodial into feuds I have never considered. This matter is now become a mere speculative

[1] From a copy courteously furnished by Dr. J. S. H. Fogg, of Boston. It was purchased by him in the papers of John Taylor of Caroline, but was probably written to Edmund Pendleton, whose papers passed into Taylor's hands.

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point; & we have it in our power to make it what it ought to be for the public good.

It may be considered in the two points of view 1st. as bringing a revenue into the public treasury. 2d. as a tenure. I have only time to suggest hints on each of these heads. 1. Is it consistent with good policy or free government to establish a perpetual revenue? is it not against the practice of our wise British ancestors? have not the instances in which we have departed from this in Virginia been constantly condemned by the universal voice of our country? is it safe to make the governing power when once seated in office, independent of it's revenue? should we not have in contemplation & prepare for an event (however deprecated) which may happen in the possibility of things; I mean a reacknowledgment of the British tyrant as our king, & previously strip him of every prejudicial possession? Remember how universally the people run into the idea of recalling Charles the 2d after living many years under a republican government.—As to the second was not the separation of the property from the perpetual use of lands a mere fiction? Is not it's history well known, & the purposes for which it was introduced, to wit, the establishment of a military system of defence?

Was it not afterwards made an engine of immense oppression? Is it wanting with us for the purpose of military defence? May not it's other legal effects (such of them at least as are valuable) be performed in other more simple ways? Has it not been the

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practice of all other nations to hold their lands as their personal estate in absolute dominion? Are we not the better for what we have hitherto abolished of the feudal system? Has not every restitution of the antient Saxon laws had happy effects? Is it not better now that we return at once into that happy system of our ancestors, the wisest & most perfect ever yet devised by the wit of man, as it stood before the 8th century.

The idea of Congress selling out unlocated lands has been sometimes dropped, but we have alwais met the hint with such determined opposition that I believe it will never be proposed.—I am against selling the lands at all. The people who will migrate to the Westward whether they form part of the old, or of a new colony will be subject to their proportion of the Continental debt then unpaid. They ought not to be subject to more. They will be a people little able to pay taxes. There is no equity in fixing upon them the whole burthen of this war, or any other proportion than we bear ourselves. By selling the lands to them, you will disgust them, and cause an avulsion of them from the common union. They will settle the lands in spite of everybody.—I am at the same time clear that they should be appropriated in small quantities. It is said that wealthy foreigners will come in great numbers, & they ought to pay for the liberty we shall have provided for them. True, but make them pay in settlers. A foreigner who brings a settler for every 100, or 200 acres of land to be granted him pays a better price than if he had put into the

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public treasury 5/ or 5£. That settler will be worth to the public 20 times as much every year, as on our old plan he would have paid in one paiment. I have thrown these loose thoughts together only in obedience to your letter, there is not an atom of them which would not have occurred to you on a moment's contemplation of the subject. Charge yourself therefore with the trouble of reading two pages of such undigested stuff.

By Saturday's post the General wrote us that Ld. Howe had got (I think 100) flat bottomed boats alongside, & 30 of them were then loaded with men; by which it was concluded he was preparing to attack, yet this is Tuesday & we hear nothing further. The General has by his last return, 17000 some odd men, of whom near 4000 are sick & near 3000 at out posts in Long Island &c. So you may say he has but 10000 effective men to defend the works of New York. His works however are good & his men in spirits, which I hope will be equal to an addition of many thousands. He had called for 2000 men from the flying camp which were then embarking to him & would certainly be with him in time even if the attack was immediate. The enemy have (since Clinton & his army joined them) 15.000 men of whom not many are sick. Every influence of Congress has been exerted in vain to double the General's force. It was impossible to prevail on the people to leave their harvest. That is now in, & great numbers are in motion, but they have no chance to be there in time. Should however any disaster befall us at New York they will

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form a great army on the spot to stop the progress of the enemy. I think there cannot be less than 6 or 8000 men in this city & between it & the flying camp. Our council complain of our calling away two of the Virginia battalions. But is this reasonable. They have no British enemy, & if human reason is of any use to conjecture future events, they will not have one. Their Indian enemy is not to be opposed by their regular battalions. Other colonies of not more than half their military strength have 20 battalions in the field. Think of these things & endeavor to reconcile them not only to this, but to yield greater assistance to the common cause if wanted. I wish every battalion we have was now in New York.—We yesterday received dispatches from the Commissioners at Fort Pitt. I have not read them, but a gentleman who has, tells me they are favorable. The Shawanese & Delèwares are disposed to peace. I believe it, for this reason. We had by different advices information from the Shawanese that they should strike us, that this was against their will, but that they must do what the Senecas bid them. At that time we knew the Senecas meditated war. We directed a declaration to be made to the six nations in general that if they did not take the most decisive measures for the preservation of neutrality we would never cease waging war with them while one was to be found on the face of the earth. They immediately changed their conduct and I doubt not have given corresponding information to the Shawanese and Delewares.

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I hope the Cherokees will now be driven beyond the Missisipi & that this in future will be declared to the Indians the invariable consequence of their beginning a war. Our contest with Britain is too serious and too great to permit any possibility of avocation from the Indians. This then is the season for driving them off, & our Southern colonies are happily rid of every other enemy & may exert their whole force in that quarter.

I hope to leave this place some time this month.

I am Dear Sir, Your affectionate friend

P. S. Mr. Madison of the college & Mr. Johnson of Fredsb'gh are arrived in New York. They say nothing material had happened in England. The French ministry was changed.

TO JOHN PAGE.

PHILADELPHIA, Aug. 20, 1776.

DEAR PAGE,—We have been in hourly expectation of the great decision at New York, but it has not yet happened. About three nights ago an attempt was made to burn the two ships which had gone up the river. One of the two fire-rafts prepared for that purpose grappled the Phenix ten minutes, but was cleared away at last. A tender however was burnt. The two ships came down on Sunday evening and passed all our batteries again with impunity. Ld Dunmore is at Staten isld. His sick he sent to

[1] From the original in the possession of the American Antiquarian Society of Worcester.

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Halifx, his effective men he carried to Staten isld. & the blacks he shipped off to the West Indies. Two gentlemen who had been taken prisoners by the enemy have made their escape. They say they are now 20,000 & that another division of 5,000 foreigners is still expected. They think Ld Howe will not attack these 10 days, but that he does not wait for his last division, being confident of victory without. One of these informants was captain of a continental vessel going for ammunition. The mate & crew rose & took the vessel. They fell in with the division of the Hessians which came with the Hessian general & were brought to. The general learning from the dethroned captain what had happened, immediately threw the piratical mate into irons, & had the captain to dine with him every day till they got to Halifx where he delivered him, vessel &c. over to the English.—A gentleman who lived some time in this city, but since last winter has become a resident of St. Eustatia writes that by a Dutch ship from Amsterdam they have advice that the states of Holland had refused to renew the prohibition on the exportation of powder to the colonies, or to cede to the English the Scotch brigade in their service, or to furnish them with some men of war asked of them by the British court. This refusal so piqued the ministry that they had been enduced to take several Dutch ships, amongst which he said were two which sailed from that island & were carried to London, another to St. Kitt's. In consequence of this the Dutch have armed 40 ships of war & ordered 60 more to be built

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& are raising 20,000 land forces. The French governor in chief of their W. Indies has not only refused to permit a capt of a man of war to make prize of our vessels in their ports but forbidden them to come within gun shot of the ports. The enemy's men of war being withdrawn from our whole coast to N. York gives us now fine opportunities of getting in powder. We see the effect here already.

Two Canadians who had been captains in our Canadian regiment & who General Gates writes us are known in the army to be worthy of good credit made their escape from St. John's, & came over to our army from Tyconderoga; & give the following intelligence. The enemy did not fortify any place we abandoned. They had 2000 men at Isle aux noix under Genl. Fraser, 2000 at St. John's under Carleton & some at Montreal. 250 only had been left at Quebec. It was reported that 4000 English troops which were to have been a part of that army had perished at sea which gave great uneasiness. The fleet brot over timber &c for 50 boats which they attempted to transport by land from the mouth of Sorel to St. John's, but could not for want of carriages which had been destroyed. Carleton, therefore, employed Canadians to build batteaux at St. John's. He has rendered himself very odious to the Canadians by levying contributions on them in general & confiscating the estates of all those who followed our army or who abscond. Great numbers of the Germans desert daily & are anxiously concealed by the inhabitants. 70 Brunswickers disappeared in one

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day. Their officers are so much afraid of bush-fighting & ambushes that they will not head any parties to pursue the runaways. The men have the same fears, which prevents them from deserting in so great numbers as is supposed they will when once our fleet shall appear cruising on the lake to receive & protect them. Between the 22d & 24th July Carleton & the other generals abandoned all their posts on this side Sorel except St. John's with as great precipitation as our poor sick army had done, carrying with them their artillery & provisions. This was occasioned by the arrival and mysterious manœuvres of a fleet at Quebec supposed French, hoisting different colours & firing at Tenders sent from the town to enquire who they were. 200 men were left at Isle aux noix to send them intelligence of our operations, who they say will go down the river if we return into Canada. For this event the Canadians are offering up prayers at the shrines of all their saints. Carleton some time ago hearing that we were returning with a considerable reinforcement was so terrified that he would have retired immediately had not some of his spies come in & informed him of the deplorable situation to which the small pox had reduced our army.—They are recovering health & spirits. Genl. Gates writes that he had accounts of the roads being crowded with militia coming to his assistance. 600 from New Hampshire came in while he was writing his letter, being the first. His fleet had sailed from Tyconderoga to Crown point. Their number and force as follows.

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	Guns	Swivels	Men
1 Schooner	12, 4 lbrs.	10	50
1 Sloop	12, 4 "	10	50
1 Schooner	4, 4 " 4, 2 lbrs.	10	35
1 do	2, 4 " 6, 2 "	8	35
2 Gallies, each	1, 12 " 2, 9 "	8	45
2 do "	3, 9 "	8	45
2 do not quite rigged.			

Eight more gallies would be ready to join them in a fortnight when they would proceed down the Cape. General Arnold (who is said to be a good sailor) had undertaken the command. We have 200 fine ship carpenters (mostly sent from here) at work. I hope a fleet will soon be exhibited on that lake such as it never bore. The Indians have absolutely refused Carleton in Canada & Butler at Niagara to have any thing to do in this quarrel, & applaud in the highest terms our wisdom & candour for not requiring them to meddle. Some of the most sensible speeches I ever saw of theirs are on this head, not to be spoken to us, but behind our backs in the councils of our enemies. From very good intelligence the Indians of the middle department will be quiet. That treaty is put off till October. Were it not that it interferes with our Assembly I would go to it, as I think something important might be done there, which could not be so well planned as by going to the spot & seeing its geography. We have great fear that the sending an agent from Virginia to enlist Indians will have ill consequences. It breaks in upon the plan pursued here & destroys that uniformity & consistency of counsels

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which the Indians have noticed & approved in their speeches. Besides they are a useless, expensive, ungovernable ally.—I forgot to observe that a captain Mesnard of Canada had come to Genl. Gates after the two above mentioned & confirmed their account in almost every article. One of the German deserters travelled with him to within 20 miles of our camp, when he was obliged to halt through fatigue. He passed 3 others of them.—Baron Woedeke is dead, no great loss from his habit of drinking.—The infamous Bedel & Butterfield were ordered by Congress to be tried for their conduct. They have been tried by a Court martial, condemned & broke with infamy. We inclose to you all the Commissions mentioned in the last letter of the delegates, except Innis's to be forwarded to the Eastern shore immediately, & Weedon's & Marshall's who we are informed are on the road hither. Would to God they were in N. York. We wait your recommendation for the 2 vacant majorities. Pray regard militaryment alone. The commissions now sent do not fix the officers to any particular battalion so that the commanding officer will dispose of them. Cannot you make use of any interest with Lee or Lewis to call Innis over to the Western shore. He pants for it, & in my opinion has a right to ask it. Adieu, Adieu.

Davis with the 4000 lb of gun powder & 90 stand of arms for Virgā got into Egg harbour. We have sent waggons for the powder to bring it here, & shall wait your further order. We were obliged to open Van

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Bibber & Harrison's letter to the Council of safety of Virgā in order to take out the bill of lading without which it would not be delivered.

RESOLUTION TO ENCOURAGE DESERTIONS OF HESSIAN OFFICERS.[1]

J. MSS.

Aug. 27. [1776]

The Congress proceeding to take into further consideration the expediency of inviting from the service of his Brittanick majesty such foreigners as by the compulsive authority of their prince may have been engaged therein & sent hither for the purpose of waging war against these states, and expecting that the enlightened minds of the officers having command in those foreign corps will feel more sensibly the agency of the principles urged in our resolution of the 14th instant,[2] principles which be derived from the unalterable laws of God & nature cannot be superseded by any human authority or engagement, and willing to tender to them also, as they had before done to the soldiery of their corps a participation of the blessings of peace, liberty, property & mild government, on their relinquishing the disgraceful office on which they have been sent hither: Resolved that they will give all such of the said foreign officers as shall leave the armies of his Britannic majy in America & chuse to become citizens of these states, unappropriated lands in the following quantities and proportions to them & their heirs in absolute dominion: To a colonel 1,000 acres, to a Lt Col. 800 as. to a Major 600 as. to a Captn 400 as. to an Ensign 200 as. to every non commisd. officer 100 as. & to every other officer or person employed in the sd foreign corps & whose office or employment is not here specifically named, lands

[1] Jefferson, Franklin, and Adams were appointed a committee on Aug. 26th to report on a letter of James Wilson, and this resolution, with a preamble, and additional resolution, was adopted the following day as the result of their report. This resolution is in Jefferson's handwriting, but the preamble is in that of John Adams.

[2] A plan for encouraging the Hessians and other foreigners to quit the British service.

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in the like proportion to their rank or pay in the sd corps: & moreover that where any officers shall bring with them a number of the sd foreign soldiers, this Congress, besides the lands before promised to the sd officers and soldiers will give to such officers further rewards proportionate to the numbers they shall bring over & suited to the nature of their wants. Provided that such foreign officers or soldiers shall come within over from the sd service before these offers be recalled, or within after a reasonable time.

RESOLUTIONS ON PEACE PROPOSITIONS.[1] J. MSS.

[Aug. 28, 1776]

Resolved that tho' this Congress, during the dependance of these states on the British crown with unwearied supplications sued for peace & just redress, & tho' they still retain a sincere disposition to peace; yet as his Britannic majesty by an obstinate perseverance in injury & a callous indifference to the sufferings & the complaints of these states, has driven them to the necessity of declaring themselves independent, this Congress bound by the voice of their constituents, which coincides with their own sentiments, have no power to enter into conference or to receive any propositions on the subject of peace which do not as a preliminary acknowledge these states to be sovereign & independant: & that whenever this shall have been authoritatively admitted on the part of Great Britain they shall at all times & with that earnestness which the love of peace and justice inspires, be ready to enter into conference or treaty for the purpose of stopping the effusion of so much kindred blood.

Resolved that the reproof given by Genl Washington to Ld Drummond for breach of his parole, & his refusal to give him a pass thro' the states on so idle an errand and after a conduct so dishonourable, be approved by this house & let it be submitted to the General to take such measures as his prudence will suggest

[1] These resolutions were apparently moved in the Congress on the arrival of Washington's letter of Aug. 26th, enclosing Lord Drummond's letter to him, and his answer. *Cf.* Ford's *Writings of Washington*, IV, 350, 369.

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to prevent any evil which may happen to these states by Lord Drummond's further continuing communication with their enemies.

Resolved that the articles enclosed by Ld Drummond to Ld Howe whereby it is proposed "that it shall be ascertained by calculation what supply towards the general exigency of the state each separate colony shall furnish, to be increased or lessened in proportion to the growth or decline of such colony, & to be vested in the king by a perpetual grant, in consideration whereof Great Britain should relinquish only her claim to taxation over these colonies," which the sd Ld Drummond suggests "the colonies were disposed not many months ago to have made the basis of a reconciliation with Gr. Britain," were the unauthorized, officious & groundless suggestions of a person who seems totally unacquainted with either reasonings or the facts which have attended this great controversy; since from its first origin to this day there never was a time when these states intimated a disposition to give away in perpetuum their essential right of judging whether they should give or withhold their money for what purposes they should make the gift, and what should be its continuance.

TO THE PRESIDENT OF THE CONTINENTAL CONGRESS.[1]

(JOHN HANCOCK.) C.C.

WILLIAMSBURGH, Octob. 11, 1776.

Honorable Sir,—Your favor of the 30th together with the resolutions of Congress of the 26th Ult came safe to hand. It would argue great insensibility in me could I receive with indifference so confidential an appointment from your body. My thanks are a poor return for the partiality they have been pleased to entertain for me. No cares for my own person,

[1] A reply to a notification of his election as a Commissioner to France.

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nor yet for my private affairs would have induced one moment's hesitation to accept the charge. But circumstances very peculiar in the situation of my family, such as neither permit me to leave nor to carry it, compel me to ask leave to decline a service so honorable & at the same time so important to the American cause. The necessity under which I labor & the conflict I have undergone for three days, during which I could not determine to dismiss your messenger, will I hope plead my pardon with Congress, and I am sure there are too many of that body, to whom they may with better hopes confide this charge, to leave them under a moment's difficulty in making a new choice. I am, Sir, with the most sincere attachment to your honorable body & and the great cause they support, their and your most obedient humble servt.

NOTES ON RELIGION.[1] J. MSS.

[Oct. 1776?]

Sabellians. X^n^. heretics. That there is but one person in the Godhead. That the 'Word' & holy spirit are only virtues, emanations or functions of the deity.

Sorcinians. X^n^. heretics. That the Father is the one only god. That the Word is no more than an expression of y^e^. godhead & had not existed from all eternity; that Jes. Christ was god no otherwise than by his superiority above all creatures who were put in subjection to him by the father. That he was not a mediator, but

[1] These are endorsed by Jefferson: "scraps early in the revolution." They were probably materials and notes for his speeches in the House of Delegates on the petitions for the disestablishment of the Episcopal church. Owing to the rebinding it is practically impossible to say if any order was intended.

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sent to be a pattern of conduct to men. That the punishments of hell are n^{t} eternal.

Arminians. They think with the Romish church (ag^{t} the Calvinists) that there is an universal grace given to all men, & that man is always *free* & at liberty to receive or reject grace. That God creates men free, that his justice would not permit him to punish men for crimes they are predestinated to commit. They admit the presence of god, but distinguish between fore-knowing & predestinating. All the fathers before St. Austin were of this opinion. The church of Engld founded her article of predestination on his authority.

Arians. X^{n}. heretics. They avow there was a time when the Son was not, that he was created in time mutable in nature, & like the angels liable to sin; they deny the three persons in the trinity to be of the same essence. Erasmus and Grotius were Arians.

Apollinarians. X^{n}. heretics. They affirm there was but one nature in Christ, that his body as well as soul was impassive & immortal, & that his birth, death, & resurrection was only in appearance.

Macedonians. X^{n}. heretics. They teach that the Holy ghost was a meer creature, but superior in excellence to the Angels. See *Broughton*, verbo 'Heretics,' an enumeration of 48. sects of Christians pronounced Heretics.

Locke's system of Christianity is this: Adam was created happy & immortal; but his happiness was to have been *Earthly* & *Earthly* immortality. By *sin* he lost this—so that he became subject to total death (like that of brutes) to the crosses & unhappiness of this life. At the intercession however of the son of god this sentence was in part remitted. A life conformable to the law was to restore them again to immortality. And moreover to them who *believed* their *faith* was to be counted for righteousness. Not that faith without works was to save them; St. James. c. 2. sais expressly the contrary; & all make the fundamental pillars of X^{ty} to be faith & *repentance*. So that a reformation of life (included under *repentance*) was essential, & defects in this would be made up by their *faith;* i. e. their faith should be counted for righteousness. As to that part of mankind who

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never had the gospel preached to them, they are 1. Jews.—2. Pagans, or Gentiles. The Jews had the law of works revealed to them. By this therefore they were to be saved: & a lively faith in god's promises to send the Messiah would supply small defects. 2. The Gentiles. St. Pa. sais—Rom. 2. 13. 'the Gentiles have the law written in their hearts, i. e. the law of nature: to which adding a *faith* in God & his attributes that on their repentance he would pardon them, they also would be justified. This then explains the text 'there is no other *name* under heaven by which a man may be saved,' i. e. the defects in good works shall not be supplied by a faith in Mahomet Foe, [?] or any other except Christ.

The fundamentals of X^{ty} as found in the gospels are 1. Faith, 2. Repentance. That faith is every [where?] explained to be a belief that Jesus was the Messiah who had been promised. Repentance was to be proved sincerely by good works. The advantages accruing to mankind from our Saviour's mission are these.

1. The knolege of one god only.

2. A clear knolege of their duty, or system of morality, delivered on such authority as to give it sanction.

3. The outward forms of religious worship wanted to be purged of that farcical pomp & nonsense with which they were loaded.

4. An inducement to a pious life, by revealing clearly a future existence in bliss, & that it was to be the reward of the virtuous.

The Epistles were written to persons *already Christians*. A person might be a X^{n} then before they were written. Consequently the fundamentals of X^{ty} were to be found in the preaching of our Saviour, which is related in the gospels. These fundamentals are to be found in the epistles dropped here & there, & promiscuously mixed with other truths. But these other truths are not to be made fundamentals. They serve for edification indeed & explaining to us matters in worship & morality, but being written occasionally it will readily be seen that their explanations are adapted to the notions & customs of the people they were written to. But yet every sentence in them (tho the writers were inspired) must not be taken up

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& made a fundamental, without assent to which a man is not to be admitted a member of the X^n^ church here, or to his kingdom hereafter. The Apostles creed was by them taken to contain all things necessary to salvation, & consequently to a communion.

Shaftesbury *Charact.* As the Antients tolerated visionaries & enthusiasts of all kinds so they permitted a free scope to philosophy as a balance. As the Pythagoreans & latter Platonists joined with the superstition of their times the Epicureans & Academicks were allowed all the use of wit & railery against it. Thus matters were balanced; reason had play & science flourished. These contrarieties produced harmony. Superstition & enthusiasm thus let alone never raged to bloodshed, persecution &c. But now a new sort of policy, which considers the future lives & happiness of men rather than the present, has taught to distress one another, & raised an antipathy which if temporal interest could ever do now *uniformity* of opn, a hopeful project! is looked on as the only remedy agt. this evil & is made the very object of govm't itself. If magistracy had vouchsafed to interpose thus in other sciences, we should have as bad logic, mathematics & philosophy as we have divinity in countries where the law settles orthodoxy.

Suppose the state should take into head that there should be an uniformity of countenance. Men would be obliged to put an artificial bump or swelling here, a patch there &c. but this would be merely hypocritical, or if the alternative was given of wearing a mask, $\frac{99}{100}$ths must immediately mask. Would this add to the beauty of nature? Why otherwise in opinions? In the middle ages of X^ty^ opposition to the State opins was hushed. The consequence was, X^ty^ became loaded with all the Romish follies. Nothing but free argument, raillery & even ridicule will preserve the purity of religion. 2 Cor. 1. 24. the apostles declare they had no dominion over the faith.

A heretic is an impugner of fundamentals. What are fundamentals? The protestants will say those doctrines which are clearly & precisely delivered in the holy Scriptures. Dr. Vaterland would say the Trinity. But how far this character of being clearly delivered will suit the doctrine of the trinity I leave others

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to determine. It is nowhere expressly declared by any of the earliest fathers, & was never affirmed or taught by the Church before the Council of Nice (*Chillingas Pref.* § 18. 33.) Iranæus sais 'who are the clean? those who go on firmly, believing in the Father & in the Son." The fundamental doctrine or the firmness of the X[n] faith in this early age then was to believe in the *Father & Son.* Constantine wrote to Arius & Alexr treating the question "as vain foolish & impertinent as a dispute of words without sense which none could explain nor any comprehend &c.' This line is commended by Eusebius (*Vit. Constant* l. r. c. 64 &c.) and Socrates (*Hist. Eccles.* l. i. c. 7) as excellent admirable & full of wisdom. 2 *Middleton.* 115. remarks on the story of St. John & [illegible] "Le saint concil (de Nièce anno 630) ayant defini que le fils de dieu est de meme substance que son pere & qu'il est eternel comme lui, composa une Simbole (the Nicene creed) ou il explique la divinite du *pere et du fils* et qu'il finit par ces paroles 'dont le regne n'aura point de fin.' car la doctrine que regarde le *Saint Esprit* ne fut ajoutée que dans la seconde concile tenu contre les erreurs de Macedoniens, ou ces questions furent agitées." *Zonaras* par Coussin. Ann. 330. The second council meant by *Zonaras* was that of Constantinople ann. 381. *D'hist. Prim. Xty.* pref. XXXVIII. 2d app. to pref. 49. The Council of Antioch ann [ ] expressly affirms of our Saviour *οὐκ ἐστιν ὁμουσιος* that he was not consubstantial to the father. The Council of Nice affirmed the direct contrary. *Dhist. Prim. Xty. Pref.* CXXV.

Episcopy. Gr. *Επισκοπος.* Lat. Episcopus. Ital. Vescovo. Fr. Evesque. Saxon, Byscop. Bishop (overseer). The epistles of Paul to Timothy & Titus are relied on (together with Tradition) for the Apostolic institution of bishops.

As to tradition, if we are Protestants we reject all tradition, & rely on the scripture alone, for that is the essence & common principle of all the protestant churches. As to Scripture 1. Tim. 3. 2. 'a bishop must be blameless &c. *Επισκοπος.*' v. 8.; 'likewise must the deacons be grave &c. *Διακονος*' (ministers). C. 5. v. 6, he calls Timothy a 'minister, *Διακονος;*' C. 4. v. 14. 'neglect not the gift that is in thee, which was given thee by prophecy with the laying on the hands of the presbytery,

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πρεσβυτεριου;' C. 5. 'rebuke not an elder; Πρεσβυτεροι.' 5:17;— 'let the elders that rule well, &c. Πρεσβυτεροι.' 5.19; 'against an elder (Πρεσβυτερος) receive nt an accusn.' 5.22. 'lay hands suddenly on no man, χειρας ἐπιτίθει.' 6.11. He calls Timothy man of God ἄνθρωπε τοῦ θεοῦ, 2. Tim. 1. 6. 'stir up the gift of god, which is in thee, by the putting on of *my* hands 'επιθεσεως των χειρων' but ante c. 4. v. 14, he said it was by the hands of the presbytery. This imposition of hands then was some ceremony or custom frequently repeated, & certainly is a good proof that Timothy was ordained by the elders (& consequently that they might ordain) as that it was by Paul. 1. 11. Paul calls himself 'a preacher,' 'an apostle,' 'a teacher.' 'κηρυξ, και αποστολος και διδασκαλος.' Here he designates himself by several synonims as he had before done Timothy. Does this prove that every synonim authorizes a different order of ecclesiastics. 4. 5. 'do the work of an Evangelist, make full proof of thy ministry' ἐργον ποιησον εὐαγγελιστου, την διακονιαν σου πληροφορεισον.' Timothy then is called 'επισκοπος, διακονος, ευαγγελιστος.' ανθρωποσ θεου.' 4.11. He tells Tim. to bring Mark with him, for 'he is profitable to me for the ministry.' διακονιαν. Epist. to Titus. 1. 1, he calls himself 'a servant of god' δουλοσ θεου.' 1.5. 'for this cause left I thee in Crete that thou shouldst set in order the things that are wanting, and ordain (καταστησῃς) *elders* in every city, as I had appointed thee.' If any be blameless, the husband of one wife, having faithful children, not accused of riot or unruly, for a *bishop* must be blameless as the steward of god &c. Here then it appears that as the elders appointed the bishops, so the bishops appointed the elders, i. e, they are synonims. Again when telling Titus to appoint *elders* in every city he tells him what kind of men they must be, for said he a bishop must be &c., so that in the same sentence he calls elders bishops. 3.10 'a man that is an *heretic* after the first & second admonition, reject, 'αἱρετικον.' James 5. 14. 'is any sick among you? Let him call for the elders (πρεσβυτερος) of the church, & let them pray over him, anointing him with oil in the name of the lord.'

Another plea for Episcopal government in Religion in England is it's similarity to the political governmt by a king. No bishop,

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no king. This then with us is a plea for government by a presbytery which resembles republican government.

The clergy have ever seen this. The bishops were alwais mere tools of the crown.

The Presbyterian spirit is known to be so congenial with friendly liberty, that the patriots after the restoration finding that the humour of people was running too strongly to exalt the prerogative of the crown promoted the dissenting interest as a check and balance, & thus was produced the Toleration Act.

St. Peter gave the title of *clergy* to all god's people till Pope Higinus & ye succeeding prelates took it from them & appropriated it to priests only. 1 Milt. 230.

Origen, being yet a layman, expounded the scripchures publickly & was therein defended by Alexander of Jerusalem & Theodotn of Cæsarea producing in his behalf divers examples that the privilege of teaching was antiently permitted to laymen. The first Nicene council called in the assistance of many learned lay brethren. ib. 230.

Bishops were elected by the hands of the whole church. Ignatius (the most ant^t^ of the extant fathers) writing to the Philadelphians sais 'that it belongs to them as to the church of god to chuse a bishop.' Camden in his description of Scotl^d^ sais 'that over all the world bps had no certain dioces till pope Dionysius about the year 268 did cut them out, & that the bps of Scotl^d^ extd their function in what place soever they came, indifferently till temp Malcolm 3. 1070.'

Cyprian, epist. 68. sais 'the people chiefly hath power either of chusing worthy or refusing unworthy bps the council of Nice contrary to the African churches exorts them to chuse orthodox bps in the place of the dead.' 1 Milt. 254.

Nicephorus Phocas the Greek emperor Ann. 1000 first enacted that no bps sh^d^ be chozen without his will. Ignatius in his epistle to those of Tra [mutilated] confesseth that the presbyters are his fellow-sellers & fellow henchers & Cyprian in the 6. 4. 52. epst. calls the presbyters, 'his com-presbyters' yet he was a bps.—A modern bps to be moulded into a primitive one must be elected by the people, undiocest, unrevenued, unlorded. 1 Milt. 255. From the dissensions among sects themselves arises necessarily a right

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of chusing & necessity of deliberating to which we will conform, but if we chuse for ourselves, we must allow others to chuse also, & to reciprocally. This establishes religious liberty.

Why require those things in order to eccliastical communion which Christ does not require in order to life eternal? How can that be the church of Christ which excludes such persons from its communion as he will one day receive into the kingdom of heaven.

The arms of a religious society or church are exhortations, admonitions & advice, & ultimately expulsion or excommunication. This last is the utmost limit of power.

How far does the duty of toleration extend?

1. No church is bound by the duty of toleration to retain within her bosom obstinate offenders against her laws.
2. We have no right to prejudice another in his *civil* enjoiments because he is of another church. If any man err from the right way, it is his own misfortune, no injury to thee; nor therefore art thou to punish him in the things of this life because thou supposeth he will be miserable in that which is to come—on the contrary accdg to the spirit of the gospel, charity, bounty, liberality is due to him.

Each church being free, no one can have jurisdn over another one, not even when the civil magistrate joins it. It neither acquires the right of the sword by the magistrate's coming to it, nor does it lose the rights of instruction or excommunicn by his going from it. It cannot by the accession of any new member acquire jurisdn over those who do not accede. He brings only himself, having no power to bring others. Suppose for instance two churches, one of Arminians another of Calvinists in Constantinople, has either any right over the other? Will it be said the orthodox one has? Every church is to itself orthodox; to *others* erroneous or heretical.

No man complains of his neighbor for ill management of his affairs, for an error in sowing his land, or marrying his daughter, for consuming his substance in taverns, pulling down building &c. in all these he has his liberty: but if he do not frequent the church, or there conform to ceremonies, there is an immediate uproar.

The care of every man's soul belongs to himself. But what if he neglect the care of it? Well what if he neglect the care of his

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health or estate, which more nearly relate to the state. Will the magistrate make a law that he shall not be poor or sick? Laws provide against injury from others; but not from ourselves. God himself will not save men against their wills.

If I be marching on with my utmost vigour in that way which according to the sacred geography leads to Jerusalem straight, why am I beaten & ill used by others because my hair is not of the right cut; because I have not been dresst right, bec. I eat flesh on the road, bec. I avoid certain by-ways which seem to lead into briars, bec. among several paths I take that which seems shortest & cleanest, bec. I avoid travellers less grave & keep company with others who are more sour & austere, or bec. I follow a guide crowned with a mitre & cloathed in white, yet these are the frivolous things which keep X^ns at war.

If the magistrate command me to bring my commodity to a publick store house I bring it because he can indemnify me if he erred & I thereby lose it; but what indemnification can he give one for the kdom of heaven?

I cannot give up my guidance to the magistrates, bec. he knows no more of the way to heaven than I do, & is less concerned to direct me right than I am to go right. If the Jews had followed their Kings, among so many, what number would have led them to idolatry? Consider the vicissitudes among the Emperors, Arians, Athana &c. or among our princes. H. 8. E. 6. Mary. Elizabeth. *Locke's Works* 2d vol.

Why persecute for diff^ce in relig^s opinion?

1. For love to the person.

2. Because of tendency of these opns to dis[illegible].

1. When I see them persecute their nearest connection & acquaintance for gross vices, I shall believe it may proceed from love. Till they do this I appeal to their own conscences if they will examine, wh. ye do nt find some other principle.

2. Because of tendency. Why not then level persecution at the crimes you fear will be introduced? Burn or hang the adulterer, cheat &c. Or exclude them from offices. Strange should be so zealous against things which tend to produce immorality & yet so indulgent to the immorality when produced. These moral vices all men acknowlege to be diametrically against X. & ob-

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structive of salvation of souls, but the fantastical points for which we generally persecute are often very questionable; as we may be assured by the very different conclusions of people. Our Savior chose not to propagate his religion by temporal punmts or civil incapacitation, if he had, it was in his almighty power. But he chose to extend it by it's influence on reason, there by shewing to others how they should proceed.

The commonwealth is 'a Society of men constituted for protecting their civil interests.'

Civil interests are 'life, health, indolency of body, liberty and property.' That the magistrate's jurisdn extends only to civil rights appears from these considns.

1. The magistrate has no power but w^{t} ye people gave.

The people h^{ve} n^{t} giv^{n} h^{m} the care of souls bec. ye c^{d} not, ye c^{d} not, because no man h^{s} *right* to abandon ye care of his salvation to another.

No man has *power* to let another prescribe his faith. Faith is not faith with^{t} believing. No man can conform his faith to the dictates of another. The life & essence of religion consists in the internal persuasion or belief of the mind. External forms of worship, when against our belief are hypocrisy & impiety. Rom. 14. 23. "he that doubteth is damned, if he eat, because he eateth not of faith: for whatsoever is not of faith, is sin?"

2. If it be said the magistrate may make use of arguments & so draw the heterodox to truth, I answer, every man has a commission to admonish, exhor^{t}, convince another of error.

12. A church is 'a *voluntary* society of men, joining themselves together of their own accord, in order to the public worshipping of god in such a manner as they judge acceptable to him & effectual to the salvation of their souls.' It is *voluntary* bec. no man is *by nature* bound to any church. The hope of salvation is the cause of his entering into it. If he find anything wrong in it, he should be as free to go out as he was to come in.

13. What is the power of that church. As it is a society it must have some laws for it's regulation. Time & place of meeting. Admitting & excluding members &^{c}. Must be regulat^{n} but as it was a spontaneous joining of members, it follows that it's laws extend to it's own members only, not to those of any

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other voluntary society, for then by the same rule some other voluntary society might usurp power over them.

Christ has said 'wheresoever 2 or 3 are gather^d togeth in his name he will be in the midst of them.' This is his definition of a society. He does not make it essential that a bishop or presbyter govern them. Without them it suffices for the salvation of souls.

Compulsion in religion is distinguished peculiarly from compulsion in every other thing. I may grow rich by art I am compelled to follow, I may recover health by medicines I am compelled to take ag^t my own judgment, but I cannot be saved by a worship I disbelieve & abhor.

Whatsoever is lawful in the Commonwealth, or permitted to the subject in the ordinary way, cannot be forbidden to him for religious uses: & whatsoever is prejudicial to the Commonwealth in their ordinary uses & therefore prohibited by the laws, ought not to be permitted to churches in their sacred rites. For instance it is unlawful in the ordinary course of things or in a private house to murder a child. It should not be permitted any sect then to sacrifice children: it is ordinarily lawful (or temporarily lawful) to kill calves or lambs. They may therefore be religiously sacrificed, but if the good of the state required a temporary suspension of killing lambs, as during a siege, sacrifices of them may then be rightfully suspended also. This is the true extent of toleration.

Truth will do well enough if left to shift for herself. She seldom has received much aid from the power of great men to whom she is rarely known & seldom welcome. She has no need of force to procure entrance into the minds of men. Error indeed has often prevailed by the assistance of power or force. Truth is the proper & sufficient antagonist to error. If anything pass in a religious meeting seditiously and contrary to the public peace, let it be punished in the same manner & no otherwise than as if it had happened in a fair or market. These meetings ought not to be sanctuaries for faction & flagitiousness.

Locke denies toleration to those who entertain opns contrary to those moral rules necessary for the preservation of society; as for instance, that faith is not to be kept with those of another

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persuasion, that Kings excommunicated forfeit their crowns, that dominion is founded in grace, or that obedience is due to some foreign prince, or who will not own & teach the duty of tolerating all men in matters of religion, or who deny the existence of a god (it was a great thing to go so far—as he himself sais of the parl. who framed the act of tolern but where he stopped short we may go on.) [1]

He sais 'neither Pagan nor Mahomedan nor Jew ought to be excluded from the civil rights of the Commonwealth because of his religion.' Shall we suffer a Pagan to deal with us and not suffer him to pray to his god? Why have X^ns^. been distinguished above all people who have ever lived, for persecutions? Is it because it is the genius of their religion? No, it's genius is the reverse. It is the refusing *toleration* to those of a different opn which has produced all the bustles and wars on account of religion. It was the misfortune of mankind that during the darker centuries the X^n^. priests following their ambition and avarice combining with the magistrate to divide the spoils of the people, could establish the notion that schismatics might be ousted of their possessions & destroyed. This notion we have not yet cleared ourselves from. In this case no wonder the oppressed should rebel, & they will continue to rebel & raise disturbance until their civil rights are fully restored to them & all partial distinctions, exclusions & incapacitations removed.

DRAFT OF BILL TO ABOLISH ENTAILS.[2] V. S. A.

[Oct. 14, 1776.]

A Bill to enable tenants in tail to convey their lands in fee-simple. Whereas the perpetuation of property in certain families by

[1] "Will not his own excellent rule be sufficient here too; to punish these as civil offences. e. gr. to assert that a foreign prince has power within this Commonwealth is a misdemeanor. The other opns may be despised. Perhaps the single thing & which may be required to others before toleration to them would be an oath that they would allow toleration to others."—*T. J.*

[2] On Oct. 12, 1776, leave was granted to introduce this bill, and Jefferson, Starke, and Bullitt were named a committee to draft it. Jefferson reported

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means of gifts made to them in fee-simple is contrary to good policy, tends to deceive fair traders who give credit on the visible possession of such estates, discourages the holder thereof from taking care & improving the same, and sometime does injury to the morals of youth by rendering them independent of, and disobedient to, their parents; and whereas the former method of docking such estates tail by special act of assembly formed for every particular case employed very much time of the legislature, was burthensome to the public, and also to the individual who made application for such acts:

Be it therefore enacted by [1]

and it is hereby enacted by authority of the same that any person who now hath, or hereafter may have any estate in fee tail general or special in any lands or slaves in possession, or in the use or trust of any lands or slaves in possession, or who now is or hereafter may be entitled to any such estate tail in reversion or remainder after the determination of any estate for life or lives or of any lesser estate, whether such estate hath been or shall be created by deed, will, act of assembly, or any other ways or means shall have full power to pass, convey, or assure in fee-simple or for any lesser estate the said lands or slaves, or use in lands or slaves or such reversion or remainder therein, or any part or parcel thereof, to any person or persons whatsoever by deed or deeds of feoffment, gift, grant, exchange, partition, lease, release, bargain, and sale, covenant to stand seized to uses, deed to lead uses, or by his last will and testament, or by any other mode or form of conveiance or assurance by which such lands or slaves, or use in lands or slaves, or such reversion or remainder therein might have

this draft Oct. 14th. It was considered and amended in the Committee of the Whole on Oct. 17th and 18th, was passed by the lower house on Oct. 23d, and concurred in by the Senate, Nov. 1st. It was the first great blow at the aristocratic or landed class of Virginia, and is noticed by Jefferson in his *Autobiography; ante*, I, 49. This is the draft of the bill, in Jefferson's handwriting, the bill as finally adopted being in the *Session Acts* for 1776, p. 37; *A Collection of the Public Acts of Va.*, 1785, p. 45; and in *Hening*, IX, 226.

[1] As this was one of the first bills passed by the Assembly as formed under the Constitution adopted in this year, the enacting clause was not yet definitely settled, and is left blank in the draft.

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been passed, conveied or assured had the same been held in fee-simple by the person so passing, conveying or assuring the same: and such deed, will or other conveiance shall be good and effectual to bar the issue in tail & those in remainder and revertor as to such estate or estates so passed, conveied, or assured by such deed will or other conveiance.

Provided nevertheless that such deed, will, or other conveiance shall be executed, acknoleged, or proved, and recorded in like manner as, and in all cases where, the same should have been done, had the person or persons so conveying or assuring held the said lands or slaves, or use of lands and slaves or such reversion or remainder in fee-simple.

Amendments to Bill to Abolish Entails.[1]

[Oct. 18]

Line 18. omit 'have &c. to the end of the bill, & insert 'from henceforth, or from the commencement of such estate tail, stand ipso facto seized, possessed, or entitled of, in, or to, such lands or slaves or use in lands or slaves so held or to be held as aforesaid in possession, reversion, or remainder in full & absolute fee-simple, in like manner as if such deed, will, act of assembly, or other instrument had conveyed the same to him in fee-simple; any words, limitations, or conditions in the said deed, will, act of assembly, or other instrument to the contrary nothwithstanding.

Saving to all & every person & persons, bodies politic and corporate, other than the issue in tail & those in reversion & remainder, all such right title, interest & estate claim & demand, as they, every, or any of them could or might claim, if this act had never been made: and Saving also to such issue in tail & to those in reversion & remainder any right or title which they may have acquired by their own contract for good & valuable consideration actually & bona fide paid or performed.

[1] These amendments were proposed by Jefferson himself, and are taken from the original in his handwriting, in the Virginia archives.

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DRAFT OF A BILL TO REMOVE SEAT OF GOVERNMENT.[1]

J. MSS.

[October 14, 1776.]

Whereas great numbers of the inhabitants of this commonwealth must frequently & of necessity resort to the seat of government where general assemblies are convened, Superior courts are held & the Governor & Council usually transact the executive business of government; & the equal rights of all the sd inhabitants require that such seat of government should be as nearly central to all as may be, having regard only to navigation, the benefits of which are necessary for promoting the growth of a town sufficient for the accommodation of those who resort thereto, and able to aid the operations of government: and it has been also found inconvenient in the course of the present war where seats of government have been so situated as to be exposed to the insults & injuries of the public enemy; which dangers may be avoided and equal justice done to all the Citizens of this commonwealth by removing the seat of government to the town of in the county of which is more safe & central than any other town situated on navigable water:

Be it therefore enacted by the general Assembly that six whole squares of ground surrounded each of them by four streets & containing all the ground within such streets situate in the said town of and on an open & airy part thereof shall be appropriated to the use & purpose of public buildings. On one of the sd squares shall be erected one house for the use of the General Assembly to be called the Capitol, which said Capitol shall contain two apartments for the use of the Senate & their clerk, two others for the use of the house of delegates & their clerk, and others for the purposes of

[1] On Oct. 14th the House of Delegates "*ordered*, That leave be given to bring in a bill for the removal of the seat of government, and that Mr. Jefferson, Mr. Adams and Mr. Starke do prepare and bring in the same." On the same day Jefferson introduced this bill, which was read for a first time, and "on the question put that the said bill be read a second time, it passed in the negative." *Journal* for 1776, p. 51. See Jefferson's *Autobiography*, *ante*, I, 55. A bill for this purpose, with the preamble of the above, was introduced by Harvey on May 28, 1779, and passed. It is printed in *A Collection of the Public Acts of Virginia*, 1785, p. 100; and in *Hening*, X, 85.

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Conferences, Committees, & a Lobby, of such forms & dimensions as shall be adapted to their respective purposes. On one other of the sd squares shall be erected another building to be called the Halls [sic] of justice which shall contain two apartments for the use of the court of Appeals & it's clerk, two others for the use of the High court of Chancery & it's clerk, two others for the General court & it's clerk, two others for the use of the Court of Admiralty & it's clerk, & others for the uses of grand & petty juries, of such forms & dimensions as shall be adapted to their respective purposes; and on the same square last mentioned shall be built a public jail with few apartments for the present but so planned as to admit of addition hereafter. One other of the sd squares shall be reserved for the purpose of building thereon hereafter a house for the several executive boards and offices to be held in. Two others with the intervening street shall be reserved for the use of the governor of this commonwealth for the time being to be built on hereafter. And the remaining square shall be appropriated to the use of a public Market. The said houses shall be built in a handsome manner with walls of brick, or stone & Porticos where the same may be convenient or ornamental, and with pillars & pavements of stone.

There shall be appointed by joint ballot of both houses of assembly five persons to be called the directors of the public buildings, who, or any three of them shall have power to make choice of such squares of ground situate as before directed, as shall be most proper & convenient for the sd public purposes, to agree on plans for the said buildings, to employ proper workmen to erect the same, to superintend them, to procure necessary materials by themselves or by the board of trade, & to draw on the Treasurer of this commonwealth from time to time for such sums of money as shall be wanting; the plans & estimates of which shall be submitted to the two houses of assembly whensoever called for by their joint vote, & shall be subjected to their controul.

And that reasonable satisfaction may be paid & allowed for all such lots of ground as by virtue of this act may be taken & appropriated to the uses aforesaid, the clerk of the county of is hereby empowered & required on requisition from

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the s^d directors to issue a writ in nature of a writ of Ad quod damnum to be directed to the sheriff of the s^d county commanding him to summon & impanel twelve able & discreet freeholders of the vicinage no ways concerned in interest in the sd lots of land nor related to the owners or proprietors thereof to meet on the sd lots on a certain day to be named in the sd writ not under five nor more than ten days from the date thereof, of which notice shall be given by the sheriff to the proprietors and tenants of the sd lots of land if they be to be found within the county, & if not, then to their agents therein if any they have, which freeholders taking nothing, on pain of being discharged from the inquest & immediately imprisoned by the sheriff, either of meat or drink from any person whatever from the time they come to the sd place until their inquest, seated shall be charged by the sd sheriff impartially & to the best of their skill & judgment to value the sd lots of ground in so many several & distinct parcels as shall be owned & held by several & distinct owners & tenants & according to their respective interests & estates therein, & if the sd valuation cannot be completed in one day then the sd sheriff shall adjourn the sd jurors from day to day until the same be completed; & after such valuation made the sd sheriff shall forthwith return the same under the hands & seals of the sd jurors to the clerk's office of the sd county, and the right & property of the sd owners & tenants in the sd lots of land shall be immediately divested & be transferred to this commonwealth in full & absolute dominion, any want of consent or disability to consent in the sd owners & tenants notwithstanding.

The costs of the sd inquest & the several sums at which the rights of the owners & tenants are valued shall be paid by the Treasurer to the sd owners, tenants & others entitled respectively on warrant from the Auditors.[1]

And whereas it may be expedient to enlarge the sd town of by laying off a number of lots to be added, thereto, & it may also happen that some of the lands adjacent to the sd town may be more convenient for the public uses; be it therefore enacted that the sd directors cause two hundred additional lots or half acres, with necessary streets to be laid off adjacent to

[1] This clause, which is stricken out, follows: "The sd directors shall work at the public expense for the act."

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such parts of the sd town as to them shall seem most convenient and they shall also be at liberty to appropriate the six squares aforesd or any part of them either from among the lots now in the sd town, or those to be laid off as before directed, or of the lands adjacent to the sd former or latter lots ; and the sd six squares & two hundred lots shall thenceforth be a part of the sd town, and the sd directors shall return into the clerk's office of the sd county of there to be recorded, a full & distinct report under their hands and seals of the lots and squares of land added by them to the sd town or appropriated to the public uses, together with a plan thereof, the rights of the several owners & tenants of the lots of land so to be added to the town & not appropriated to the public uses are nevertheless saved to them.

And be it further enacted that from & after the last day of December which shall be in the year of our Lord 1780 the sd Court of Appeals, High Court of Chancery, General Court & Court of Admiralty shall hold their sessions in the apartments prepared for them by the sd directors in the sd Halls of justice ; that the first meeting of general assembly after the same day shall be in the said Capitol, that the clerks of the two houses of Assembly and of the several courts before mentioned, shall previously cause to be removed thither at the public expense the records, papers, and other things belonging to their respective offices, and that the keeper of the public jail shall in like manner cause all prisoners in his custody to be removed to the public jail to be built as before directed, which shall thenceforward be deemed and used as the public jail spoken of by the laws whether heretofore or hereafter passed.

DRAFT OF A BILL FOR RAISING SIX ADDITIONAL BATTALIONS OF INFANTRY ON THE CONTINENTAL ESTABLISHMENT.[1]

J. MSS.

[October 28, 1776.]

Whereas it has been thought necessary by the American Congress that the armies of the United States should be augmented

[1] On October 15, 1776, the House of Delegates appointed Mr. Treasurer (R. C. Nicholas), Nelson, Bullitt, Jefferson, and Smith to prepare this bill. On

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to eighty eight battalions, to be enlisted to serve during the continuance of the present war unless sooner discharged, & that fifteen of the said battalions should be furnished by this Commonwealth ; and the said Congress by their resolutions have engaged to give to every noncommissioned officer & private soldier a present bounty of twenty dollars (an annual bounty of a suit of clothes, to consist for the present year of two linen hunting shirts, two pr of overalls, a leathern or woollen waistcoat with sleeves, one pr of breeches, a hat or leathern cap, 2 shirts, 2 pr of hose, & 2 pr of shoes, amounting in the whole to the value of 20 dollars or that sum to be paid to each soldier who shall procure those articles for themselves) & to provide the following portions of lands to be given at the close of the war, or whensoever discharged to the officers and soldiers who shall engage in the said service, or to their representatives if slain by the enemy ; to wit, to every noncommissioned officer or soldier one hundred acres, to every ensign one hundred and fifty acres, to every Lieutenant two hundred acres, to every captain three hundred acres, to every Major four hundred acres, to every Lieutt. Colonel four hundred & fifty acres & to every Colonel five hundred acres.

And whereas there are already in the Continental service eight battalions of regulars raised in this Commonwealth who were enlisted to serve for certain terms only, and one other battalion, formerly in the same service & dissolved by the expiration of the time of their enlistment, has been ordered to be reestablished by new levies ; which nine battalions are to be taken as part of the fifteen from this commonwealth provided they shall re-enlist for the continuance of the war : and there are also in the service of this commonwealth (nine companies of marines &) five companies of land forces stationed at different posts on the river Ohio whom it may be expedient to engage in the six new battalions now necessary to be raised to complete the said number of fifteen battalions.

Oct. 24th, they added to these, Jones, Fleming, Henry, and Read. The bill was reported by Jefferson on Oct. 28th, and read the first time. Read the second time on the following day, and passed on Nov. 2d. This is printed from the original draft in Jefferson's handwriting. The act as adopted is given in *Hening*, IX, 179.

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Be it therefore enacted by the General Assembly of the Commonwealth of Virginia that[1] it shall & may be lawful for the governor with the advice of his privy council & he & they are hereby required to take such measures as to them shall seem most expedient for engaging the said nine battalions & also so many (of the sd Marines &) of the companies stationed on the Ohio as shall be willing to be of the Armies of the United States on the new establishment before recited; & for that purpose to give recruiting Powers to the officers commanding the same, or to send special Commissioners if that measure shall appear more effectual, or to adopt any other ways or means most likely to procure their speedy enlistment.

[[2]And whereas it will be necessary, in order to augment & form the said Marines into one complete battalion, that an additional company or companies should be raised for that purpose, but the numbers which may be wanting of officers & men being now unknown, the appointing & raising the same cannot be precisely directed, be it therefore enacted that it shall & may be lawful for the governor by warrant under his hand to authorize such of the County committees as he shall think proper to appoint such & so many captains & other inferior officers as may be wanting completely to officer the said battalion, who shall immediately proceed to raise their quotas of men: & in case any officers of the Marines engaging in the sd service shall fail to raise the quota of men hereafter prescribed for his office before the day of next it shall be lawful for the governor with the advice of the privy council either to appoint another in his stead or to continue him as shall appear most likely to expedite the raising his said quota.

And be it farther enacted that the Committees for the counties of Fincastle, Botetourt, East-Augusta, & Hampshire shall each of them appoint one captain, 2 Lieutenants, one Ensign & four

[1] Then follows this clause, which is stricken out: "a committee of three persons shall to be chosen by joint ballot of both houses shall proceed immediately." And Jefferson has written: "Govt. to re-enlist 9 former battalions, marines & Ohio garrisons. T. Nelson, R. H. Lee, etc."

[2] "Govr. to direct commees shall No. companies to compleat Battalions of marines."—*T. J.*

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sergeants to be added to the officers of the five companies stationed on the Ohio or to such of them as shall be willing to engage as aforesaid in the Continental service & shall with them be formed into one battalion ; provided that if all or any of the officers of the sd five companies stationed on the Ohio shall refuse to enter into the sd service it shall be lawful for the Committee of the county from which such officer or officers received his or their appointment to appoint others in their room.] [1]

Quotas from the several counties.

And for raising the sd six additional battalions be it further enacted that the committee for the district of West Augusta shall have power to appoint ten captains, twenty Lieutenants & ten Ensigns & the committees for the other counties in this commonwealth to appoint the following officers respectively
to wit, the Commee for the county of

Accomack (1208 militia).[2]
90 Albemarle (1254 militia) + 70 minte. — 54 officers = 1270 [*100*] 95. *130*
82 Amelia (abt. 1150) [*90*] *85*
46 Amhurst (abt. 650, [*91*] *48*
142 Augusta 1. Captain, 2 Lieutenants, & 1 Ensign & *4 serjeants* (abt. 2000) [*167*] *149*
100 Bedford (abt. 1400) [*119*] *104*
124 Botetourt 1. Captain, 2 Lieutenants, & 1 Ensign & *4 serjeants* (abt. 1600) [*126*] *119*
85 Brunswick (abt. 1200, [*95*] *90*
46 Buckingham (600 excluse officers) + 50 [*51*] *40*
85 Berkeley (abt. 1200 Mr Wood) [*95*] *90*
70. Caroline (983) [*77*] *72*
25. Charles City (350) [*27*] *26*
58. Charlotte (812 militia) [*64*] *61*
68. Chesterfield (abt. 960) [*74*] *70*
100. Culpepper (abt. 1400) [*110*] *104*
71. Cumberland (abt. 1000 militia) [*79*] *75*

[1] The paragraphs in brackets are stricken out.

[2] In the bill as passed, from one to three officers are assigned to each county, and it is thus apparent that this list was merely an approximation of the probable recruits from each county, the figures to the right having been first written, and then struck out, those to the left representing the ultimate conclusion of the committee.

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50. Dinwiddie (abt. 700 Mr. Tazew.) [55] 52
57. Dunmore (abt. 800 nt more yn 500 besides menonists &c., [63] 61
11. Eliz. City (120) + 90 [12] 12
32. Essex (abt. 450) [35] 33
71. Fairfax (abt. 1000) [79] 76
78. Fauquier (abt. 1000) + 100 [87] 82
90. Frederick (1264 militia) [100] 95
142. Fincastle 1. Captain, 2 Lieutenants, & 1 Ensign & 4 *serjeants* (2000) [157] 149
64. Gloster (abt. 900) [71] 67
37. Goochland (520) [41] 39
71. Halifax (abt. 1000) [79] 75
50. Hampshire 1. Captain, 2 Lieutenants, & 1 Ensign (abt. 700 rank & file) [55] 52
64. Hanover (abt. 800) + 100 min [71] 67
35. Henrico (abt. 500) [40] 30
14. James City (190) [15] 14
51. Isle of Wight (abt. 650) + 75 [57] 54
32. K. George (abt. 400) + 50 [35] 32
42. K & Queen (600) [47] 44
35. K. Wm. (about 500. Mr. Colman. Colo Brooke) [40] 38
14. Lancaster (abt. 200) [16] 15
114. Loudoun (abt. 1600 besides Quakers) [126] 119
42. Louisa (550 militia abt) + 50 minute men [47] 44
42. Lunenburgh (563 militia.) + 30 minte. [46] 43
21. Middlesx (abt 300) [24] 23
60. Muhlenburgh (850) [67] 63
57. Nansemd. (abt. 800) [63] 60
32. N. Kent (448—r & f.) [35] 30
71. Norfolk (900) + 100 [79] 75
Northampton
50. Northumbld. (700) [55] 90
38. Orange (above 500) + 50 [43] 41
110. Pittsylva. (1550) [122] 119
38. Pr. Edwd. (abt 550 militia) [43] 41
32. Pr George (abt 450) [65] 33
32. Prss. Anne (abt 450) [35] 33
71. Pr. Wm. (917 militia) + 75 = 100 [79] 75
33. Richmond (abt 470) [37] 34
53 Southampton (750) [59] 16
35 Spotsylve (500) [40] 28
35 Stafford (abt 400) + 100 by Mr. Brent) [40] 38
25 Surry (abt 350) [27] 26
47 Sussex (abt 660) [50] 49
7 Warwick (100) [8] 7

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50 Westmld. (627) + 70 = 700 [55] 90
21 York (abt 260) + 40 free negroes [24] 22
14 Wmsburgh 200 [16] 15

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which several officers so to be appointed shall immediately proceed to enlist the several quotas of men following, that is to say, every Captain shall enlist 28 men, every first Lieutent. 20, every sd. Lieutt. 16, & every ensign 10 & shall be at liberty to do the same as well within their respective counties as without.

Officers failing to enlist quotas. And if any officer shall fail to recruit his quota of men before mentiond on or before the day of next the Commee of the county by whom such officer was appointed may either appoint another in his stead, or may continue him if it shall appear to them that the quota of such officer may be sooner completed by his continuance. But if he or the officer appointed in his stead shall further fail to raise the sd quota before the day of next, then the commee of the county who appointed such officer shall make report of the whole matter to the Governor, who with the advice of the privy council shall take such measures thereon as shall seem most likely to expedite the raising the said quota, whether it be by continuing the same officer, or by making a new appointment; and wheresoever any new appointment shall be made on failure of any officer or officers to raise their quota, the men enlisted by such officer or officers so failing shall be delivered over to the officer appointed to succeed him, he refunding to the officer who enlisted the same such recruiting expenses as the committee shall judge reasonable.

And be it further enacted, that to each of the sd six additional battalions 1 Colonel, one Lieutenant Colonel & one Major shall be appointed by joint ballot of both houses of assembly and one chaplain & one Surgeon by the field officers & captains of each battalion respectively, & that all Chaplains, & Surgeons as well of the sd six battalions as of the nine battalions now in Continental service shall at all times be removeable, and others appointed in their steads by the sd field officers & Captains of their respective battalions for good cause to them shewn: and the

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Surgeon's Mates shall be appointed by the Surgeon himself with the approbation of the Commanding officer of the battalion & the Adjutant, Regimental Quarter Master, Serg^{t}. Major, Quarter Master Sergeant & Drum Major by the said commanding officer of the battalion.

And be it further enacted that the Quotas of men raised by the officers to be appointed by the Commee of *West Augusta* shall be formed into distinct companies by the sd Commee which companies shall constitute one of the sd six additional battalions: & the Quotas raised by the officers to be appointed by any other Commees shall by the same Commee be formed into one or more companies or parts of a company according to the nature & number of the Quotas: & the said companies & parts of companies shall be formed into battalions of ten companies each by the governor or in his absence by the President who shall Allot to each battalion such of the field officers to be appointed by the two houses of assembly as he shall judge best suited to the same, and shall deliver to the Continental Commander in this Colony a roll of each battalion as soon as the same shall be so embodied and officered.

How to be formed into companies & battalions.

And whereas it is apprehended that sufficient care and attention hath not been alwais had by officers to the cleanliness, to the health & to the comfort of the soldiers entrusted to their command be it therefore enacted that so long as any troops from this commonwealth shall be in any service to the Northward thereof it shall & may be lawful for our delegates in Congress & they are hereby required from time to time to enquire into the state & condition of the troops & the conduct of the officers commanding & where any troops raised in this commonwealth are upon duty within the same or any where to the Southward there the Govr. & Council are required to make similar enquiry by such ways or means as shall be in their power; & whensoever it shall be found that any officer appointed by this commonwealth shall have been guilty of negligence or want of fatherly care of the soldiers under his command they are hereby respectively required to report to this assembly the whole truth of the case who hereby reserve to themselves a power of removing such officer:

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& whenever they shall find that such troops shall have suffered thro' the negligence or inattention of any officer of Continental Appointment they are in like manner to make report thereof to this assembly whose duty it will be to represent the same to Congress: and they are further respectively required from time to time to procure & lay before this assembly exact returns of the numbers & condition of such their troops.

DRAFT OF A BILL ESTABLISHING COUNTY COURTS.[1] V. S. A.

[Nov. 4, 1776.]

For fixing the places of holding courts for the counties of Pittsylvania & Henry. Be it enacted by the General assembly of the Commonwealth of Virginia that it shall & may be lawful for the freeholders of the said county of Pittsylvania qualified by law to vote for representatives in general assembly, & they are hereby required to meet at the house of Richard Faithing in the said county on the day of next, then & there to chuse the most convenient place (having due regard as well to the extent of the said county as to the populousness of its several parts) for holding courts for the said county in future.

And be it further enacted that notice shall be given to the freeholders of the said county of Pittsylvania by the Sheriff, ministers & readers, in the same manner & under the like penalties as are directed for giving notice of an election of representatives to serve in General assembly & that the election shall be held by the said Sheriff in the same manner as such election of repre-

[1] On Oct. 25th leave was granted to introduce this bill, and Jefferson, Williams, Bullitt, and Terry were named to do it. On Nov. 4th it was read the first time and on the 5th it was read a second time and committed to the Committee of the Whole. On Nov. 21st it was sent back to the drafting committee, to which the members from Pittsylvania were added. It was reported again on Dec. 2d, and passed on the 5th. It is difficult to discover the cause for dissatisfaction with Jefferson's draft, which led to its recommittal, for a comparison with the act as passed gives no indication of it, but it undoubtedly was intended to aid the western counties in the struggle to obtain equal privileges with those on the tide-waters.

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sentatives to serve in General assembly, writing down the names of the places voted for, every one in a separate column of his poll, & the names of every freeholder voting under the place for which he votes: & the place for which the most votes shall be given shall thenceforth be the place for holding courts for the said county: & after the election shall be made the sheriff shall return the original poll, attested by himself, to the clerk's office of the said county, by whom the same shall be recorded.

And be it further enacted that the same rules & proceedings shall be observed in every article relating to the said election & all persons failing to do their respective duties shall incur the same and be subject to the same actions as are prescribed by law in case of an election of representatives to serve in General assembly.

And be it further enacted that it shall and may be lawful for the freeholders of the said county of Henry qualified by law to vote for representatives to serve in General assembly, & they are hereby required, at the time & place to make their first choice of representatives (which place is hereby declared to be the plantation of John Rolands) to make choice also of the most convenient place for holding courts for the said county of Henry in future having due regard as well to the extent of the said county as to the populousness of it's several parts, which election shall be notified & held, & in all circumstances to be conducted by the same rules & proceedings, & all persons failing to do their respective duties shall incur the like penalties & be subject to the same action as before directed for the county of Pittsylvania.

Provided that if the freeholders of either of the said counties of Pittsylvania or Henry shall be prevented by rain snow or accidental rise of watercourses from assembling at the places of election on either of the days beforementioned that then it shall & may be lawful for the Sheriff & he is hereby required to postpone the election so prevented until that day week, & so in like manner from week to week so often as the case shall happen.

And whereas by the usual course of the law sheriffs can not be qualified for their offices but by the justices of the peace in open court at the court-house of their counties; and no court can be held for the qualification of a sheriff for the said county of Henry

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until a place for holding the same is fixed on as before directed; be therefore that the sheriff for the county of Pittsylvania shall have authority & power & he is hereby required to notify & hold the sd election for the county of Henry as well of a place for holding courts as aforesaid as for making their first choice of representatives to serve in General assembly, in like manner & subject to the same penalties & actions as are before presented in the case of the election for the county of Pittsylvania.

DRAFT OF A BILL FOR ALTERING RATES OF COPPER COIN.[1]

V. S. A.

[Nov. 7, 1776.]

For rendering the half penny pieces of copper coin of this commonwealth of more convenient value & by that means introducing them into more general circulation; be it enacted by the General Assembly of the commonwealth of Virginia that from and after the passing of this act the said pieces of copper coin shall pass in all payments for one penny each of current money of Virginia. Provided nevertheless as was heretofore provided by the laws that no person shall be obliged to take above one shilling of the said copper coin in any one paiment of twenty shillings or under, nor more than two shillings & six pence of the said coin in any one paiment of a greater sum than twenty shillings.

REPORT ON UPSHUR.[2]

In the HOUSE OF DELEGATES,
Thursday, Nov. 28, 1776.

Mr. Jefferson, from the Committee of Privileges and Elections, reported that the committee had, according to order, had under

[1] On Nov. 7th the House of Delegates gave leave for the introduction of this bill, and named Jefferson and Fleming to "propose the same," which was done the same day. On Nov. 8th it was read for a second time and on Nov. 21st was rejected.

[2] From the *Virginia Gazette*, Dec. 13, 1776.

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their consideration the petition of ARTHUR UPSHUR, to them referred, and had agreed to the following report and resolution thereupon; which he read in his place, and afterwards delivered in at the clerk's table, where the same were again twice read, and agreed to. Your committee find that the said ARTHUR UPSHUR having several vessels on the stocks, cleared one of them out for the British West Indies on the 20th day of July, 1775, but that the said vessel was not launched until the 26th day of August; that on the 2d day of September, when the storm happened, the said vessel had no part of her loading on board; that the said vessel sailed after the 10th day of September to one of the foreign West India Islands, with a load of Indian corn; that on the 2d day of October following the Committee of the county of Accomack proceeded to inquire into the matter, and on such inquiry declared the said UPSHUR had violated the continental association by sending out the said vessel and ordered his case to be published in the Virginia Gazette; that after the return of the said vessel, the said UPSHUR (as appears by the minutes of the said committee) denying that he had intentionally violated the said association, voluntarily submitted the matter again to the determination of the committee, who, at a session held on the 8th day of January, 1776, upon farther enquiry, were of the opinion that he had violated the said association ignorantly, but that, having behaved obstinately, and ill afterwards, he ought to be fined, and they accordingly fined him 100£, which sum the said UPSHUR deposited with a member of the committee. Your committee farther find, that the said petitioner hath conducted himself, both before and since the said transaction, as a friend to the American cause.

Resolved, that though the committee of Accomack were actuated by the best of motives, yet they erred in proceeding to impose the fine upon the petitioner, and that therefore the said fine ought to be restored to the said petitioner by the person with whom it was deposited.

Resolved, that the said petitioner having violated the association through ignorance, and having in other respects conducted himself as a friend to the American cause, ought to be restored to the rights of dealing and intercourse with his country.

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A BILL FOR THE TRIAL OF OFFENCES COMMITTED OUT OF THIS COMMONWEALTH. V. S. A.

[Dec. 5, 1776.]

For the punishment of Treasons, misprisions of treason or concealment of treasons, felonies, robberies, murthers & confederacies hereafter to be committed out of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Virginia that all treasons, misprisions of treasons, concealments of treasons, felonies, robberies, murthers & confederacies hereafter to be committed in or upon the sea, or in any haven, river creek or other place by land or by water not within the body of any county of this Commonwealth, shall be enquired, tried, heard, determined & judged in such counties and places in this Commonwealth as shall be limited by the Governor's commission or commissions to be directed for the same in like form & condition as if any such offence or offences had been committed or done in or upon land: and such commission shall be had under the seal of the Commonwealth directed to any three or more judges of the General Court, from time to time and as oft as need shall require to hear & determine in such offences after the common course of the laws of this Commonwealth, used for treasons, misprisions of treasons, concealments of treasons felonies, murthers, robberies, & confederacies of the same, done and committed upon the land within this Commonwealth.

And be it enacted by the authority aforesaid that such persons to whom such commission or commissions shall be directed, or two of them at the least, shall have full power & authority to enquire of such offences & of every of them, by the oaths of twelve good & lawful inhabitants in the county limited in their commission in such like manner & form, as if such offences had been committed upon the land within the same county; and that every indictment found and presented before such commissioners, of any treasons, misprisions of treasons, concealments of treasons, felonies, robberies, murthers, man-slaughters, or such other offences, being committed or done in and upon the seas, or in or upon any haven, river, creek or other places by land or by water not being in the body of any county of this Commonwealth, shall

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be good and effectual in the law; and if any person or persons happen to be indicted for any such offence done or hereafter to be done upon the seas, or in any other place above limited, that then such order, process, judgement, & execution shall be used, had, done & made, to & against every such person and persons so being indicted as against Traytors, felons, murtherers and other offenders aforesaid for treason, misprision of treason, concealment of treason, felony, robbery, murther, or other such offences done upon the land, as by the laws of this Commonwealth is accustomed; & that the trial of such offence or offences if it be denied by the offender or offenders, shall be had by twelve lawful men inhabited in the county limited within such commission, which shall be directed as is aforesaid, & no challenge or challenges to be had for the county; & such as shall be convicted of any such offence or offences by verdict, confession or process, by authority of any such commission, shall have & suffer such pains of death, losses of lands, goods & chattels, as if they had been attainted & convicted of any treasons, misprisions of treasons, concealments of treasons, felonies, robberies, or other the said offences done upon the lands.

And be it enacted by authority afore said, that for treasons, misprisions of treasons, concealments of treasons, felonies, murthers & confederacies done upon the sea or seas, or in or upon any haven, river or creek of this Commonwealth, the offenders shall not be admitted to have the benefit of his or their clergy, but be utterly excluded thereof & from the same.

Provided alway, that this act extend not to be prejudicial or hurtfull to any person or persons, for taking any victual, cables, ropes, anchors, or sails, which any such person or persons (compelled by necessity) taketh of or in any ship which may conveniently spare the same, so that the same person or persons pay out of hand for the same victual, cables, ropes, anchors, or sales, money or money-worth, to the value of the thing so taken, or do deliver for the same a sufficient bill obligatory to be paid within months next ensuing the making of such bills, & that the makers of such bills well and truly pay the same debt at the day to be limited within the said bills.

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DRAFT OF A BILL FOR SUSPENDING EXECUTIONS FOR DEBT.[1] V. S. A.

[Dec. 6, 1776.]

Whereas by the expiration of the act for the regulating and collecting certain officers fees, and by the troubles which have since subsisted in this country, the administration of justice hath been in a great measure suspended; and altho it is thought proper to revive and establish the courts of justice for the purpose of securing & preserving internal peace & good order, of determining disputed rights and titles and of ascertaining just debts and unsettled demands which might otherwise be lost by the death of witnesses or insolvency of debtors; yet nevertheless it may produce great oppression and ruin to debtors to suffer executions to be levied on decrees to be inforced, during the present limited and uncertain state of our trade, for debts heretofore contracted: Be it therefore enacted by the General Assembly of the Commonwealth of Virginia that when judgement shall be entered or decree passed in any court of record for the recovery of money due from the defendant or defendants before the passing of this act, if such defendant or defendants shall *give to the said court good & sufficient security* for paiment *of the money* whensoever by a restoration of trade or from other circumstances it shall appear proper to the General assembly to pass an act for levying executions or enforcing decrees for money then such

[1] The system of mortgaging crops in Virginia; the non-exportation association of the Continental Congress; the interruption of all trade by the restraining acts; and the outbreak of actual war, threatened to force bankruptcy on the larger part of the planter interest in that State. This class therefore united in opposing the establishment of courts of justice under the new constitution. In hopes of lessening this serious opposition, leave was given by the Burgesses, Dec. 5th, for the introduction of this bill, and Mason, Jefferson, T. Adams, Bullitt, Nicholas, and Braxton were named a committee to do so. On Dec. 6th it was introduced by Mason, and read the first time. On the 9th it was read for a second time and committed to the Commitee of the Whole. In the mean time, the planters, not satisfied with this sop, had succeeded in deferring the bills organizing the courts, till the next session; so those opposed to them united and deferred this bill also. It was never again introduced. The draft is in Jefferson's handwriting.

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court shall order execution of the sd judgement or process for enforcing the said decree to be stayed, *entering of record the recognisance of such security*, so that if the money be not paid when directed by such future act of assembly, a scire facias may issue thereon, without the necessity of commencing a new suit.

DRAFT OF A BILL FOR PROVIDING AGAINST INVASIONS AND INSURRECTIONS.[1] V.S.A.

[May 10, 1777.]

For making provision against invasions & insurrections & laying the burthen thereof equally on all be it enacted by the General assembly *of the Commonwealth of Virginia* that the division of the militia of each county into ten parts directed by a *former* ordinance shall be completed & kept up in the following manner. The commanding officer of every county within one month after every general muster shall enroll under some captain such persons not before enrolled as ought to make a part of the militia, who together with those before enrolled & not yet formed into tenths *& with such Quakers & Menonists as are not formed into tenths* shall by such captain at his first muster after receiving the same be divided into equal parts as nearly as may be, each part to be distinguished by fair and equal lot by numbers from one to ten, & when so distinguished to be added to, and make part of the division of the militia of such county already distinguished by the same number.

And where any person subject to such allotment shall not attend, or shall refuse to draw for himself, the captain shall cause his lot to be drawn for him by some other in presence of the company.

[1] The House of Delegates gave leave May 9, 1777, to introduce this bill and named Jefferson, Fleming, and Braxton to draw it. The former reported it on May 10th, when it was read for the first time. On May 16th and 18th it was considered in the Committee of the Whole, and ordered to be engrossed, and on May 21st it was passed. This is printed from the draft in Jefferson's handwriting, and varies considerably from the Act as printed in the *Session Acts* for May, 1777, p. 13; *The Report of the Revisers*, p. 6; *A Collection of the Public Acts of Virginia*, 1785, p. 52; and *Hening*, x, 294.

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When any officer of the militia shall receive notice of any invasion or insurrection within his own county, he shall immediately give intelligence thereof to the commanding officer of the county & if the urgency of the case requires it he shall forthwith raise the militia under his special command & proceed to oppose the enemy or insurgents: the commanding officer of the county on receiving notice thereof shall immediately if the case will admit delay or be greater than the force of his own militia may encounter, communicate the same to the Governor, by express, for which purpose he may impress boats, men & horses, & may also notify to any militia officer of the adjacent counties to be by him forwarded to his commanding officer & in the meantime if it be urging shall raise such part of his own militia as the case shall require & admit. The commanding officer of any adjacent county receiving the notice so forwarded, shall immediately raise such part of his militia, not exceeding two thirds, as the circumstances of the case may require & order them to the assistance of such adjacent county: but any of the commanding officers, if he think the case of too small consequence to require these proceedings may call a council of war to consist of a majority of his field officers & captains & take their advice whether any & what force shall be raised or sent or whether they may await the governor's orders.

The governor on receiving such intelligence may, with the advice of the council of state cause to be embodied & marched to oppose such invasion or insurrection, such members of the militia as may be needful and from such counties as will suit the exigencies of the case; & if the corps consist of three or more battalions, may appoint a General officer to take command thereof.

The several divisions of the militia of any county shall be called into duty by regular rotation from the first to the tenth, & every person failing to attend when called on, or to send an able bodied man in his room, shall, unless there be good excuse, be considered as a deserter & suffer accordingly.

Any able bodied volunteers who will enter into the service shall be accepted instead of so many of the divisions of militia called for but if the invasion or insurrection be so near & pressing as not to allow the delay of calling for the division or divisions next in turn, the commanding officer may call on such part of the militia

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as shall be most convenient, to continue in duty till such division or divisions can come to supply their places.

The soldiers of such militia if not well armed & provided with ammunition shall be furnished with the arms & ammunition of the county & any deficiency in these may be supplied from the public magazines, or, if the case admit not the delay, by impressing arms & ammunition of private property, which ammunition so far as not used, & arms, shall be duly returned as soon as they may be spared & any person embezzling any such public or private arms, or not delivering them up when required by his commanding officer shall on his warrant be committed to prison without bail or mainprise there to remain till he deliver or make full satisfaction for the same.

The commanding officer shall appoint such officers of the militia as he shall think most proper to command the men called out by divisions in the following proportions: if there be called into duty not more than 15 men he shall appoint one ensign & one serjeant to command them: if not more than 25 men a lieutenant an ensign and two serjeants; if not more than 40 men, a captain, lieutenant ensign & three serjeants; if 50 men, a captain two lieutenants an ensign & four serjeants; & so in proportion for every greater number; adding, if there be several companies, such field officers as may be requisite. A distinct list of the names & numbers of officers & soldiers sent on duty, with the time they served, attested on oath by the officer commanding such party shall be certified by the commanding officer of the county to the *next General assembly*.

Any officer resigning his commission on being called into duty by the Governor or his commanding officer, shall be *ordered into the ranks*, & shall moreover suffer punishment as for disobedience of command.

The commanding officer of the corps marching to oppose any invasion or insurrection, or any commissioned officer by warrant under the hand of such commander, may, for the necessary use of such corps or for the transportation of them across waters, or of their baggage by land or water, impress provisions, vessels with their furniture, hands, wagons, carts, horses, oxen, utensils for intrenching, smiths, wheelwrights, carpenters or other artificers,

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& arms in the case before directed, such necessaries or the use of them by the day shall be previously appraised by two persons chosen the one by such officer & the other by the person interested, or both by the officer if the person interested shall refuse to name one and duly sworn by the said officer who is hereby empowered to administer the oath. Such officer shall give a receipt or certificate of every particular impressed, of its appraised value, & of the purpose for which it was impressed: and if any article impressed shall receive damage while in public service such damage shall be enquired of & estimated by two men chosen & sworn in the same manner & shall be *made good by the public*.

All persons drawn into actual service by virtue of this act shall be exempted in their persons & property from civil process, & all proceedings against them in civil courts shall be stayed during their continuance in service.

Where any corps or detachment of militia shall be on duty with any corps or detachment of *Colonial regulars or Continental troops*, or both of them the Continental officers shall take command of *the Colonial regulars* of the same rank, & these again of militia officers of the same rank.

The commanding officer of each of the counties of Elizabeth City, Princess Anne, Northampton & Accomack, with permission from the Governor, may appoint any number of men not exceeding six in each county to keep a constant lookout to seaward by night & by day; who discovering any vessels appearing to belong to an enemy & to propose landing or hostility, shall immediately give notice thereof to some militia officer of the county, whereon such course shall be pursued as is before directed in case of an invasion or insurrection.

The pay of all officers and soldiers of the militia, from the time they leave their homes, by order of their commanding officer till they return to them again, & of all lookouts shall be the same as shall have been allowed by the last regulations of General assembly to *Colonial* regulars of the same rank or degree. Messengers shall be allowed by the auditors of public accounts according to the nature of their service.

Any militia officer receiving notice of an invasion or the approach of any vessel with hostile purpose, & not forwarding the same to

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his commanding officer shall forfeit, if a field officer one hundred pounds, if a captain or subaltern fifty pounds ; any commanding officer of a county receiving such notice & not raising part of his militia nor taking the advice of his council of war two hundred pounds, recoverable with costs by action of debt in the name of the *Commonwealth* before any court of record, & appropriated to the same uses as the fines imposed by the courtmartial of his county.

Any officer or soldier, guilty of mutiny, desertion, disobedience of command, absence from duty or quarters, neglect of guard, or cowardice, shall be punished at the discretion of a courtmartial by degrading, cashiering, drumming out of the army, *whipping not exceeding 20 lashes*, fine not exceeding two months, or imprisonment not exceeding one month.

Such courtmartial shall be constituted of militia officers only, of the rank of Captains or higher, & shall consist of 7 members at the least whereof one shall be a county lieutenant or field officer, each of whom shall take the following oath : 'I ——— do swear that I will well & truly try & impartially determine the cause of the prisoner now to be tried, according to the act of assembly for providing against invasions & insurrections so help me god,' which oath shall be administered to the presiding officer by the next in command, & then by such presiding officer to the other members. The said court shall also appoint a clerk to enter and preserve their proceedings, to whom the president shall administer an oath truly and faithfully to execute the duties of his office. All persons called to give evidence shall take the usual oath of evidence, to be administered by the clerk of the court. If in any case the offender be not arrested before the corps of militia on duty be discharged, or cannot be tried for want of members sufficient to make a court, he shall be subject to be tried afterwards by the courtmartial of his county.

All other acts & ordinances so far as they make provisions against invasions & insurrections are hereby repealed.

This act shall be read to every company of the militia by order of the captain or next commanding officer twice in every year, that is to say, at their first muster next succeeding every general muster in his county on penalty of five pounds for every omission.

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DRAFT OF A BILL FOR REGULATING THE APPOINTMENT OF DELEGATES TO GENERAL CONGRESS.[1] V. S. A.

[May 12, 1777.]

Be it enacted by the General assembly of the Commonwealth of Virginia that there shall be annually chosen five delegates to act the part of this Commonwealth in General Congress any three of whom shall have power to sit & vote. The delegates to be chosen in this present session of assembly shall continue in office till the day of and those hereafter to be chosen at the said annual election shall enter on the exercise of their office on the day of next succeeding their election & shall continue in the same one year, unless sooner recalled or permitted to resign by General assembly; in which case another shall be chosen to serve till the end of the year in the stead of any one so recalled, or permitted to resign.

No person who shall have served two years in Congress shall be capable of serving therein again till he shall have been out of the same one whole year.

[1] The delegation of Virginia in the Continental Congress was the origin of intense factional struggle and intrigue in both the Congress and in the House of Delegates. John Adams states (*Works*, III, 31): "Jealousies and divisions appeared among the delegates of no State, more remarkably than among those of Virginia." In the Virginia Assembly R. H. Lee had antagonized the planter interest, by his course on the accounts of Treasurer Robinson, and that class had set up Benjamin Harrison as their representative. In 1776 by the influence and votes of the Lee party Harrison and Braxton were left out of the delegation, by means which a member of the neutral party (Pendleton) claimed to be "disgraceful." The former on his return to Virginia secured an election to the vacancy caused by the resignation of Jefferson; but on Wythe's retirement the Lees succeeded in filling his seat with one of their own interest, Mann Page. In turn the Harrison faction began a counter attack on R. H. Lee, but apparently first attempted to veil it under a general act of the assembly. For this purpose, May 12, 1777, they ordered the preparation of a bill regulating the appointment of delegates, and named Jefferson alone to draft it—the only case I have discovered of a single individual being so selected. He was already pledged, by his resolution offered in the Continental Congress (*ante*, p. 61) to a limited term of two years for this office; and a bill prepared on these lines would legislate Lee out of office. On May 12th he reported this draft of a bill, and after a severe struggle it was committed to the Committee of the Whole by

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Each of the said delegates for every day he shall attend in Congress shall receive [eight] dollars, and also [fifteen pence] per mile going and the same returning together with his ferriages, to be paid wherever Congress shall be sitting by the Treasurer of this Commonwealth out of any public monies which shall be in his hands.

TO JOHN ADAMS.[1]

WILLIAMSBURGH, 16 May, 1777.

Matters in our part of the continent are too much in quiet to send you news from hence. Our battalions for the continental service were some time ago so far filled as rendered the recommendation of a draught from the militia hardly requisite, and the more so as in this country it ever was the most unpopular and impracticable thing that could be attempted. Our people, even under the monarchical government, had

a vote of only 42 to 40. It was here discussed and amended on the 14th and 15th, and on the 16th was passed by the Delegates. In the Senate it was amended and returned, on May 21st the Delegates amended the Senate amendments, which were concurred in by the Senate, and it became a law. Lee, though "it was impossible . . . to avoid feeling the immediate ill treatment that I had received" "from a wicked industry, the most false and most malicious that the deceitful heart of man ever produced," seemed to have felt no ill-will toward Jefferson for his part in the affair. He returned to Virginia to secure an election to the House of Delegates, "was left out of the last chosen convention, but . . . harangued the people of the back Country, in the field & bought off one of their representatives to decline, payed his fine, to procure His return in his stead. Returned to the convention, His Brothers, by threats & Cabals, procured his appointment to General Congress." (*Stevens Mss.* No. 277.) At the same session of the legislature he secured the introduction of a new bill dealing with this question, of which apparently Jefferson was likewise the drafter, and which is printed in the *Session Acts* for 1778, p. 20, and in the *Report of the Revisers*, p. 9. *Cf. The Bland Papers*, I, 57. The text of the present bill as amended and adopted is given in the *Session Acts* for 1777, p. 17, and in *Hening*, X, 383.

[1] From the *Works of John Adams*, IX, 465.

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learnt to consider it as the last of all oppressions. I learn from our delegates that the confederation is again on the carpet, a great and a necessary work, but I fear almost desperate. The point of representation is what most alarms me, as I fear the great and small colonies are bitterly determined not to cede. Will you be so good as to collect the proposition I formerly made you in private, and try if you can work it into some good to save our union? It was, that any proposition might be negatived by the representatives of a majority of the people of America, or of a majority of the colonies of America. The former secures the larger, the latter, the smaller colonies. I have mentioned it to many here. The good whigs, I think, will so far cede their opinions for the sake of the Union, and others we care little for.

The journals of Congress not being printed earlier, gives more uneasiness than I would wish ever to see produced by any act of that body, from whom alone I know our salvation can proceed. In our Assembly, even the best affected think it an indignity to freemen to be voted away, life and fortune, in the dark. Our House have lately written for a manuscript copy of your journals, not meaning to desire a communication of any thing ordered to be kept secret. I wish the regulation of the post-office, adopted by Congress last September, could be put in practice. It was for the travel night and day, and to go their several stages three times a week. The speedy and frequent communication of intelligence is really of great consequence. So many falsehoods have been propagated that

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nothing now is believed unless coming from Congress or camp. Our people, merely for want of intelligence which they may rely on, are become lethargic and insensible of the state they are in. Had you ever a leisure moment, I should ask a letter from you sometimes, directed to the care of Mr. Dick, Fredericksburgh; but having nothing to give in return, it would be a tax on your charity as well as your time. The esteem I have for you privately, as well as for your public importance, will always render assurances of your health and happiness agreeable. I am, dear sir, your friend and servant.

TO BENJAMIN FRANKLIN.[1]

VIRGINIA, August 13, 1777.

HONORABLE SIR,—I forbear to write you news, as the time of Mr. Short's departure being uncertain, it might be old before you receive it, and he can, in person, possess you of all we have. With respect to the State of Virginia in particular, the people seem to have laid aside the monarchical, and taken up the republican government, with as much ease as would have attended their throwing off an old, and putting on a new suit of clothes. Not a single throe has attended this important transformation. A half-dozen aristocratical gentlemen, agonizing under the loss of pre-eminence, have sometimes ventured their sarcasms on our political metamorphosis. They have been thought fitter

[1] From Washington's edition of Jefferson's writings.

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objects of pity, than of punishment. We are, at present, in the complete and quiet exercise of well-organized government, save only that our courts of justice do not open till the fall. I think nothing can bring the security of our continent and its cause into danger, if we can support the credit of our paper. To do that, I apprehend, one of two steps must be taken. Either to procure free trade by alliance with some naval power able to protect it; or, if we find there is no prospect of that, to shut our ports totally, to all the world, and turn our colonies into manufactories. The former would be most eligible, because most conformable to the habits and wishes of our people. Were the British Court to return to their senses in time to seize the little advantage which still remains within their reach, from this quarter, I judge, that, on acknowledging our absolute independence and sovereignty, a commercial treaty beneficial to them, and perhaps even a league of mutual offence and defence, might, not seeing the expense or consequences of such a measure, be approved by our people, if nothing, in the mean time, done on your part, should prevent it. But they will continue to grasp at their desperate sovereignty, till every benefit short of that is forever out of their reach. I wish my domestic situation had rendered it possible for me to join you in the very honorable charge confided to you. Residence in a polite Court, society of literati of the first order, a just cause and an approving God, will add length to a life for which all men pray, and none more than your most obedient and humble servant.

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TO JOHN ADAMS.

ALBEMARLE IN VIRGA, Aug. 21, 1777.

DEAR SIR,—Your favor of May 26 came safely to hand. I wish it were in my power to suggest any remedy for the evil you complain of, tho' did any occur I should propose it to you with great diffidence after knowing you had thought on the subject yourself. There is indeed a fact which may not have come to your knolege out of which perhaps some little good may be drawn. The borrowing money in Europe (or obtaining credit there for necessaries) has already probably been essayed & it is supposed with some degree of success. But I expect your applications have as yet been only to France, Holland, or such other states as are of principal note. There is however a small power, well disposed to our cause, &, as I am informed, possessed of abilities to assist us in this way. I speak of the Grand Duke of Tuscany. The little states of Italy you know have had long peace, & shew no disposition to interrupt that peace shortly. The Grand Duke being somewhat avaricious in his nature has availed himself of the opportunity of collecting & hoarding what money he has been able to gather. I am informed from good authority (an officer who was concerned in the business of his treasury [1]) that about three years ago he had ten millions of crowns, lying dead in his coffers. Of this it is thought possible as much might be borrowed as would amount to a million of pounds lawful

[1] Mazzei.

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money. At any rate the attempt might be worth making. Perhaps an application from Dr. Franklin who has some acquaintance in that court might be sufficient, or, as it might be prudent to sound well before the application, in order to prevent the discredit of a rebuff, perhaps Congress would think it worth while to send a special agent there to negotiate the matter. I think we have a gentleman here who would do it with dexterity & fidelity. He is a native of that Duchy; well connected there, conversant in courts of great understanding & equal zeal in our cause. He came over not long since to introduce the cultivation of vines, olives, &c among us. Should you think the matter worth a further thought, either of the Cols. Lees to whom he is known can acquaint you more fully of his character. If the money can be obtained in specie it may be applied to reduce the quantity of circulating paper & be so managed as to help the credit of that which will remain in circulation. If credit alone can be obtained for the manufactures of the country, it will still help to clothe our armies or to increase at market the necessaries our people want.

What upon earth can Howe mean by the manœuvre he is now practicing? There seems to me no object in this country which can be either of utility or reputation to his cause. I hope it will prove of a piece with all the other follies they have committed. The forming a junction with the Northern army up the Hudson's river, or taking possession of Philadelphia might have been a feather in his cap, & given them

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a little reputation in Europe. The former as being the design with which they came, the latter as being a place of the first reputation abroad & the residence of Congress. Here he may destroy the little hamlet of Wmsbgh, steal a few slaves, & lose half his army among the fens & marshes of our lower country or by the heat of the climate. I am, dear sir, yours, &c.

FIRST REPORT OF CONFERENCE COMMITTEE.[1]

Thursday, Dec. 4, 1777.

Mr. Jefferson reported, from the Committee appointed to draw up what is proper to be offered at the conference proposed with the Senate, on the subject matter of their amendments to the resolution of this House for paying to Thomas Johnson the sum of 15£ 5s 6d. that the committee had accordingly drawn up what they think would be proper to be offered at the said conference, which they had directed him to report to the said House; he read the report in his place, and afterwards delivered it in at the clerks table, where the same was read and is as followeth, viz:

The House of Delegates has desired this conference, in order to preserve that harmony and friendly correspondence with the Senate, which is necessary for the discharge of their joint duties of legislation, and to prevent, both now and in future, the delay of public business, and injury which may accrue to individuals, should the two Houses differ in opinion as to the distinct office of each.

Though during the course of the last two, and also of the present session of Assembly, they have acquiesced, under some amendments made by the Senate to votes for allowing public claims and demands, yet they are of opinion that an adherence to fundamental principles is the most likely way to save both

[1] This and the following paper are from the *Journal of the House of Delegates*.

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time and disagreement; and a departure from them may at some time or other be drawn into precedent for dangerous innovations, and that therefore it is better for both Houses, and for those by whom they are entrusted, to correct the error while new, and before it becomes inveterate by habit and custom.

The constitution having declared that "money bills shall in no instance be altered by the Senate, but wholly approved or rejected," the delegates are of opinion the Senate had no authority to amend their late vote for allowing to Thomas Johnson the sum of fifteen pounds five shillings and six pence; and should the term "money bills" in the constitution not immediately convey the precise idea which the framers of that act intended to express, it is supposed that its explanation should be sought for in the institutions of that people, among whom alone a distinction between money bills and other acts of legislation is supposed to have been made, and from whom we, and others, emigrating from them, have indisputably copied it.

By the law and usage of their parliament then, all those are understood to be "money bills" which raise money in any way, or which dispose of it, and which regulate those circumstances of matter, method and time, which attend as of consequence on the right of giving and disposing. Again the law and customs of their parliament, which include the usage as to "money bills" are a part of the law of their land; our ancestors adopted their system of law in the general, making from time to time such alterations as local diversities required; but that part of their law which relates to the matter now in question, was never altered by our legislature, in any period of its history; but on the contrary, the two Houses of Assembly, both under our regal and republican governments, have ever done business on the constant admission that the law of parliament was their law. When the delegates, therefore, vote that fifteen pounds five shillings and six pence, whether raised or to be raised on the people shall be disposed of in payment to Thomas Johnson for losses sustained by him on the public behalf, this is a vote for the disposal of money, which the Senate are at liberty to approve or reject in the whole, but cannot amend by altering the sum.

The delegates, therefore, hope that the Senate will concur with

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them in a strict and mutual observance of those laws by which both houses are bound, and they are well assured, that this subject being properly stated to the Senate, they will forbear in future, to exercise a practice which seems not authorised, but, if there should be found any difference of opinion on this point, the delegates will be ready to join in any regular proposition for defining with precision, the subject of their difference, so as to prevent all doubts and delays in future.

SECOND REPORT OF CONFERENCE COMMITTEE.

Friday, Jan. 9, 1778.

Mr. Jefferson reported from the Committee, appointed to prepare reasons to be offered to the Senate, at the conference to be desired of them on the subject of the last conference; that the committee had accordingly prepared, what they thought would be proper to be offered at the said conference; and he read the same in his place, and afterwards delivered it in at the clerk's table, where the same was read, and is as followeth, viz:

Reasons, to be offered at the conference to be desired of the Senate, in answer to their reasons delivered at the last conference:

The House of Delegates, not being satisfied with the reasons urged by the Senate, in support of their amendments to the resolution for allowing Thomas Johnson the sum of 15£ 5s. 6d., have desired this second conference to shew the insufficiency of the said reasons, and to propose that some expedient may be adopted by the two Houses, for reconciling their difference of opinion.

The resemblance between the constituent parts of our legislature, and that of Great Britain, is supposed by the Senate, so faint, that no ground remains for those jealousies, which have prompted the Commons of Great Britain against their House of Lords. This might have been, and doubtless was, urged, at the time our constitution was formed, as a reason why the Senate and Delegates should have equal powers of money bills. But the argument having been overruled, and the powers of the Senate, as to this point, being fixed, by the constitution, on the same restricted footing, with those of the Lords in the British legislature,

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it is conceived not to be the proper question of this day, whether the resemblance between them, in general, be faint or strong, well or ill-grounded, but, whether the constitution has not made them, to resemble in this point.

Had those who framed the constitution, as soon as they had completed that work, been asked, man by man, what a money bill was, it is supposed that man by man, they would have referred for answer to the well known laws and usages of Parliament, or, would have formed their answer, on the Parliamentary idea of that term. Its import, at this day, must be the same as it was then. And it would be unreasonable, now, to send us to seek its definition in the subsequent proceedings of that body, as it would have been for them, at that day, to have referred us to such proceedings before they had come into existence. The meaning of the term, must be supposed complete, at the time they use it; and to be sought for, in those resources only, which existed at the time. Constructions, which do not result from the words of the legislator, but lie hidden in his breast, till called forth, ex post facto, by subsequent occasions, are dangerous, and not to be justified by ordinary emergencies.

Nor do we, by this, set up the Parliament of England, as the expositor of our constitution, but the law of Parliament, as it existed, and was evidenced by usage, at the time the term in question was inserted in our instrument of government; a law coeval with the common law itself, and no more liable, as adopted by us, to subsequent change, from that body, than their common or statute law, which we have in like manner adopted. To suppose this branch of law, not existing in our code, would shake the foundation of our whole legal system; since every legislative proposition which has been passed or rejected since the first establishment of a legislature in this country, has been determined to be law, or not law, by the forms of Parliamentary proceeding.

With as little justice may it be said, that this is referring for the definition of a term, to multiplied disputes, which have for ages agitated the Parliament of England, and which no time will decide; that it is proving what is clear, by what is very obscure; and unsettling what is fixed: since we conceive that researches

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into Parliamentary history, will decisively shew, that their practice in this matter has been clear, fixed, and ancient; and, that for ages past, it has produced no agitation, unless we call by that name some groundless assertions of the Lords in the course of the last century. Yet, these assertions they departed from in practice, at the very time they advanced them: and at all times after, they stand contradicted by the declarations of the Commons, and the constant usage of both Houses; which, agreeing together, are supposed to form the strongest evidence what the law of Parliament is on this point.

To prove this right, as uniformly claimed and exercised by the Commons, and assented to in practice by the Lords, the Delegates will subjoin some proceedings of Parliament, in addition to the passage cited by the Senate.

That a bill, for raising money by way of taxes, is a money bill, is admitted by the Senate, and need not therefore be proved.

That bills, for raising money by rates, and impositions on merchandise, are also considered as money bills, will appear, on recurring to the Parliamentary proceedings of 1671, in which it is affirmed, "that there is a fundamental right in the House of Commons alone, in bills of rates and impositions on merchandise, as to the matter, the measure, and the time;" and also, by their declaration of 1689, "that the Commons have always taken it for their undoubted privilege (of which they have been tender and jealous) that, in all aids given to the King by the Commons, the rate or tax ought not to be any way altered by the Lords," which is supposed to be the passage cited by the Senate, as of the year 1671.

That bills, for applying forfeitures in aid of the public revenue are not amendable by the Lords, appears by the proceedings of 1700, on the bill "for applying Irish forfeitures to the use of the public," to which the Lords were not permitted to make any amendments.

The right of levying money, in whatever way, being thus exercised by the Commons, as their exclusive office, it follows, as a necessary consequence, that they may also exclusively direct its application. "Cujus est dare, ejus est disponere," is an elementary

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principle, both of law and of reason: That he who gives, may direct the application of the gift: or, in other words, may dispose of it: that if he may give absolutely, he may also carve out the conditions, limitations, purposes, and measure of the gift, seems as evidently true, as, that the greater power contains the lesser.

Parliamentary usage, has accordingly, approved this reasoning.

In July, 1678, the Commons resolved, "that it is their undoubted and sole right, to direct, limit, and appoint, in all aids and supplies granted to the King, the ends, purposes, considerations, limitations, and qualifications, of such grants; which ought not to be changed by the House of Lords."

In December of the same year, the Commons having directed the payment of money, and the Lords proposed an amendment thereto, the former declared "that their Lordships never before changed any such disposition made on a supply granted by the Commons."

In 1701, the Lords having amended a bill, "for stating and examining the public accounts," by inserting a clause for allowing a particular debt, the Commons disagreed to the amendment; and declared for a reason, "that the disposition, as well as granting, of money by act of Parliament, hath ever been in the House of Commons; and, that the amendment relating to the disposal of money, does entrench upon that right." And, to a bill of the same nature, the year following, the Lords having proposed an amendment, and declared "That their right in granting, limiting, and disposing public aids, being the main hinge of the controversy, they thought it of the highest concern that it should be cleared and settled." They then go on to prove the usage, by precedents, and declarations, and, from these conclude, "That the limitation, disposition, and manner of account, belong only to them."

In reply, the Lords said, "They declined all arguments concerning the rights of the Commons in granting, limiting and disposing public aids; and, therefore, forbore to answer any arguments of that kind; but proceeded to insist that the business then depending was of quite another nature. And, at some subsequent conferences between the two Houses, during the same

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session, it was repeatedly declared, "That the Lords could not supply any deficiency, or apply any surplusage of the public money, and in case any should be found." And this declaration does not appear to have been contradicted by the Lords, either then or at any time after.

The precedents are supposed to prove, not only that the disposal or application of public money is, equally with the raising of it, the exclusive office of the Commons, but also, that it makes no difference whether it be of money then actually in the treasury, or yet to be raised on the people; nor whether the raising and disposing be in the same or in separate bills.

Though the precedents referred to by the Senate, in the proceedings of the Council and House of Burgesses, in the years 1771, 1772, and 1773, (the first of which, however, we suppose to be mistaken for 1772) might perhaps be well accounted for from their particular nature, from the history of the times, or from other causes; and though the delegates might produce, from the same records, proofs, much more decisive in their favor, yet they decline resting the matter on that bottom: because, they are of opinion, that the present determination ought not to be influenced by the practice of those who have themselves only copied from the same original. Their practice, and our opinions, must be proved by the same common rule,—the law and practice of Parliament. Their acknowledgment of the rule, proves their submission to it, and that their practice should be tried by the law, and not the law by their practice.

How dangerous it is to appeal to other authorities from the Parliamentary records, the true text of decision, will appear also by examining the whole passage, of which a part only was cited from the Commentaries of Judge Blackstone; a writer, celebrated indeed; but, whether most for his attachment to the prerogatives of the crown, or to the rights of the people, would be worthy of consideration, where the question is on one of those rights, which have been of the greatest value to the people—the right of giving and disposing of their own money. That writer, after the definition cited from his book by the Senate, goes on to quote a passage from Judge Hale's treatise on the jurisdiction of Parlia-

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ment, which is to be found more at large in Broke's Abridgement, under the title "Parliament, Pl. 4:" there it appears to be a saying of Kerbie, a clerk of the Parliament, who lays down in express terms, or by direct implication, these following positions, as of the law of Parliament:—

1st. That the Lords may amend a bill for granting aids.

2nd. That, if the amendment be by shortening the duration of the grant, they need not return the bill to the Commons for their concurrence.

3rd. That the King may alter a bill.

Broke indeed adds a quere to the case; but that Judge Blackstone, disapproved of it, cannot be inferred from his words. It is therefore submitted to the consideration of the Senate, whether they would set up as an arbiter of Parliamentary law, a writer who can cite or refer to such positions, whether condemning them, in decisive and unequivocal terms; for that part of his book, too, which the Senate quote and rely on, he cites no authority whatever. Are we then to take it upon his affirmation, when contradicted by the uniform current of Parliamentary usage? But, waiving further examination of the legality of his opinion, it suffices to observe, as a full answer to it, that the judges of the common law can take no cognizance of the law of Parliament. It can never come judicially in question before them. Their sayings or opinions on the subject, must be ever extra-judicial; and they have accordingly always disclaimed a right to give judgment on them. Definitions therefore, of Parliamentary law, by any other court, by a member of court, or by a private individual, must be rejected as inauthoritative in a Parliamentary disquisition.

For these reasons, the delegates still think, that the Senate have no authority to amend the vote in question. But open to conviction, if it can be shown they are wrong, and actuated by a strong desire to promote the public service, as well as to preserve the Constitution entire, they propose to the Senate, if they should still adhere to their former opinions, that a select committee may be appointed by each House, to meet together in full conference, and endeavor to define the office of the two Houses in bills, clauses, and votes, relating to money, and that such definition, if approved by both Houses, may be confirmed by act of Assembly.

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DRAFT OF A BILL GIVING CERTAIN POWERS TO THE EXECUTIVE.[1] V.S.A.

[Jan. 13, 1778.]

Whereas the present war between America & Great Britain was undertaken for defence of the common rights of the American states, & it is therefore just that each of them, when in danger, should be aided by the joint exertions of all; and as on any invasion of this Commonwealth in particular, we should hope for, & expect, necessary aids of militia from our neighboring sister states, so it is incumbent on us to yield the same assistance to them, under the like *circumstances;* & the laws heretofore empowering the Governor & council to send aids of militia to such states, will expire at the end of this present session of assembly.

Be it therefore enacted by the General assembly that on the invasion of any *adjacent or neighboring* state, & application from Congress, or from the legislative or executive powers of such state for aids of militia, it shall be lawful for the Governor, with the advice of the council of state, to order to their assistance such corps of the militia from any of the counties of this commonwealth as the exigence of the case may require or admit; having regard in such orders to the convenience & vicinity of such counties to the place invaded, their internal security & the imminence of the danger: and moreover to appoint such general, field & staff officers as may be requisite to command, attend, & provide for the same; to have them furnished with necessaries for travelling & camp uses, & such arms, ammunition and accoutrements as may be called for if the same can be procured & spared from this Commonwealth.

And to answer the expenses hereof in the first instance, the Governor is empowered to draw for any sums of money necessary to carry these purposes into effect on the Treasurer for this commonwealth, who is hereby authorized to pay the same out of any public money in his hands, keeping a separate & distinct account thereof, in order that the same may be reimbursed to the Commonwealth.

[1] Reported by William Fleming, Jan. 13, 1778, and read the first time. Read the second time and committed to the Committe of the Whole, Jan. 14th. Passed on Jan. 22d. Printed from the draft in Jefferson's handwriting.

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Such militia while on duty shall be subject to the Continental rules & articles of discipline & government, save only that all courtsmartial, whether general or regimental, which shall be holden on any of them, shall consist of their own officers only.

This act shall be in force until the end of the next session of General assembly & no longer.

DRAFT OF BILL DESIGNATING PLACES FOR HOLDING COURTS OF CHANCERY AND GENERAL COURT.[1]

[Jan. 20, 1778.]

Whereas by the acts constituting the High court of Chancery & General court, the said courts are to be holden at such place as the legislature shall direct, & no place hath as yet been appointed for that purpose:

Be it therefore enacted by the General assembly that for the term of one year after the end of this present session of assembly, & from thence to the end of the session next ensuing, the said courts shall be holden in the Capitol in the city of Williamsburgh.

And be it further enacted that it shall be lawful for the said High court of Chancery to appoint from time to time their own Serjeant at arms who shall be attendant on the sd court to perform the duties of his office; for which he shall receive such fees as shall be allowed by law.

A BILL GRANTING FREE PARDON TO CERTAIN OFFENDERS.[2] V.S.A.

[May 14, 1778.]

Whereas the American Congress by their resolution passed on the 23d day of April last past, reciting that persuasion & influence, the example of the deluded or wicked, the fear of danger or the

[1] In drawing the bills establishing these two courts, the place of holding had been purposely omitted, as the "western" party hoped to remove them, with the capitol, to Richmond. This was therefore merely a temporary measure.

[2] On May 13th leave was given to Jefferson, Page, Lawson, and Meriwether Smith to prepare this bill, which was introduced by Jefferson, and read for the first and second times on May 14th. It was read for the third time and passed by

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calamities of war, may have induced some of the subjects of these states to join, aid, or abet the British forces in America, and who, tho' now desirous of returning to their country, may be deterred by the fear of punishment: and that the people of these states are ever more ready to reclaim than to abandon, to mitigate than to increase the horrors of war, to pardon than to punish offenders: did recommend to the legislatures of the several states to pass laws, or to the executive authority of each state, if invested with sufficient power, to issue proclamations, offering pardon, with such exceptions, and under such limitations and restrictions, as they shall think expedient, to such of their inhabitants or subjects, as have levied war against any of these states, or adhered to, aided or abetted the enemy, and shall surrender themselves to any civil or military officer of any of these states, & shall return to the state to which they may belong before the 10th day of June next: and did further recommend to the good & faithful citizens of these states to receive such returning penitents with compassion and mercy, & to forgive & bury in oblivion their past failings and transgressions.

Be it therefore enacted by the General assembly that full and free pardon is hereby granted to all such persons without any exception who shall surrender themselves as aforesaid, and shall take the oath of fidelity to this Commonwealth within one month after their return thereto.

A BILL FOR THE SPEEDY RECOVERY OF DEBTS DUE THE UNITED STATES.[1] V. S. A.

[May 19, 1778.]

Whereas divers persons receiving money of the United States of America for publick uses, apply it to different purposes, and when called on refuse or neglect to repay the same; others enter

the House of Delegates on May 18th, but was thrown out in the Senate. It is printed from the draft in Jefferson's handwriting.

[1] On May 18th the House of Delegates adopted a resolution for the preparation of this bill, and appointed Carter, Parker, and Jefferson to prepare it. It was introduced by Parker, May 19th, when it was read for the first time. It was adopted May 21st. This is printed from the original in Jefferson's handwriting, the act as adopted being in *Hening*, IX, 462.

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into contracts for supplying the army & navy of the United states with provision and other necessaries, & fail or refuse to comply therewith; and whereas in like cases respecting this commonwealth in particular, speedy remedy was given by an act of general assembly passed in the year 1777, intitled "an act to establish a mode for the speedy and summary recovery of such sums of money as are or may become due, & for enforcing all contracts entered into with government" and it is expedient that the same speedy remedy be given in like cases respecting the United states: Be it therefore enacted by the general assembly that where in any case a remedy is by the sd act given to this commonwealth, or any of its agents or contractors, in a like case the same remedy shall be given to the United States, their agents & contractors; and where by the sd act such proceedings are directed to be instituted by the Treasurer in the name of the Governor for the time being, in a like case respecting the United states the proceedings shall be instituted by their deputy paymaster general within this commonwealth and in the name of the President of Congress for the time being.

DRAFT OF A BILL FOR PROVIDING A SUPPLY FOR THE PUBLIC EXIGENCIES.[1] V. S. A.

[May 20, 1778.]

Whereas in order to carry into effect the several acts passed at this present session of General assembly for raising a regiment of horse, for raising a battalion of infantry for garrison duty, for raising volunteers to join the grand army

3.

[1] A committee was appointed May 16, 1778, to prepare this bill; and it was reported by Carter to the House of Delegates May 20th, and read for a first time. The next day R. C. Nicholas and John Page were given permission to bring in a new bill, in the shape of an amendment to this, which they did the following day, and the second bill was accepted and passed on May 23d. This is the first bill and is taken from the draft in Jefferson's handwriting.

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4. And as it will be necessary to make a further emission of treasury notes and to provide for the redemption thereof; be it enacted by the General assembly that it shall be lawful for the Treasurer to issue treasury notes in dollars or parts of a dollar for any sum which may be requisite for the purposes aforesaid in addition to the sums issuable by former acts

10. of assembly, so as the sd sum to be issued by authority of this act do not exceed hundred thousand dollars. And he shall cause the sd to be engraved & printed in such manner & on such paper as he shall judge most likely to secure the same from being counterfeited, and shall appoint proper persons to overlook the press, & to number and sign the notes upon the best terms on which he can procure them.

14. and whereas there is reason to believe that the taxes imposed by an act passed at the last session of General assembly for raising a supply of money for publick exigencies will be more than sufficient to answer the purposes expressed in the sd act; be it further enacted that after the taxes which shall be levied by authority of the sd act shall have effected the purposes to which they are appropriated by the sd act, so much of what shall remain as shall be sufficient for the redemption of the notes to be issued by authority of this present act, shall be applied to that purpose, and if so much as shall be sufficient shall not remain, further provision shall be made by law for making good the deficiency and redeeming the whole before the first day of December which shall be in the year of our lord 1785.

Amendments to the supply of exigencies

3. For recruiting the Continental army & other purposes therein mentioned.

4. Insert the resolutions of the 29th May, 1778, for making good the losses of certain sufferers in the town of Norfolk.

10. Fill up the blank with the word "six."

14. × [Inclosure]

× If any person shall counterfeit any of the treasury notes issued by authority of this act, or shall be accessory thereto, or shall pass any such counterfeited note knowing the same to be counterfeit, he shall on conviction thereof suffer death without benefit of clergy.

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A BILL TO AMEND AN ACT INTITLED "AN ACT FOR RAISING A SUPPLY OF MONEY FOR PUBLIC EXIGENCIES."[1] V. S. A.

[May 21, 1778.]

Whereas, by an act of the last session of the General Assembly entitled an act for raising a supply of money for public exigencies it was enacted that a tax or rate of ten shillings for every hundred pounds value should be paid among other things upon all slaves by the owner or proprietor; and that the value of such slaves should be estimated by assessors to be appointed in every hundred: and it hath been already seen that such valuation will be very unequal, slaves of the same value being estimated at three or four times more in some places than in others, insomuch that the sd tax on this particular is like to be very heavy on some citizens of this commonwealth and light on others which is unequal and unjust and it is believed that if one certain rate by the head be fixed on, all slaves bearing the same proportion to their average value as the said pound rate bore to their respective values, it will be more equal in the whole, it being supposed that in most parcels of slaves there will be nearly the same proportion of valuable & of indifferent.

Be it therefore enacted by the General assembly that as well for the present as the remaining years of the term during which the sd act is to continue in force a tax of fifteen shillings by the head shall be paid on all slaves of whatever age or sex, in lieu of the sd rate of ten shillings in every hundred pounds value; and in like manner the double of the sd tax by those who by the sd act were to pay a double rate. And when the assessors shall have noted therein the number of slaves for which they shall have assessed a pound rate on the proprietor the commissioners shall extend against such proprietor the tax aforesd in lieu of the pound rate on the sd slaves extended by the assessors; and where

[1] On May 21st Nicholas and Page were appointed to prepare this bill, which they introduced on the same day, and it was read for the first time. On May 22d it was read for a second time and committed to a committee of the whole house. They reported it back, with amendments, on May 26th, and it was adopted May 29th. This is printed from the draft in Jefferson's handwriting. The bill as passed is in the *Session Acts* for 1778, and *Hening*, IX, 456.

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they shall not have so noted the number of slaves they shall be required by the sd Commissioners forthwith to do it. And if any person shall have paid such pound rate before notice of this act if the same were greater than the tax hereby imposed he may require the sheriff to refund the difference or overplus and on failure may recover the same before any justice if the sum be under twenty-five shillings, and if it amount to that sum then on motion before any court giving such sheriff ten days notice thereof: and if the pound rate so paid were less than the tax hereby imposed, then the sheriff shall collect the difference or deficiency in like manner as by the sd act he was authorized to collect the sd pound rate. And doubts having arisen where slaves are hired whether the sd pound rate should be paid by the owner or hirer, and as a like doubt may arise as to the tax hereby imposed, it is declared that the sd tax is paiable by the owner, unless otherwise settled by contract between the parties.

DRAFT OF BILL OF ATTAINDER AGAINST JOSIAH PHILIPS.[1]

V. S. A.

[May 28, 1778.]

Whereas a certain Josiah Philips, labourer, of the parish of Lynhaven and county of Princess Anne together with divers other inhabitants of the counties of Princess Anne & Norfolk and citizens of this commonwealth contrary to their fidelity associating and confederating together have levied war against this Com-

[1] This bill, printed from the draft in Jefferson's handwriting, was introduced and read for the first time May 28th; read a second time and passed on the next day. It was a violation of article 8 of the Virginia Declaration of Rights and was afterwards cited by Edmund Randolph (Debates, Virginia Convention of 1788, *Elliot*, III, 66) as such, in the following words: "There is one example of this violation in Virginia, of a most striking and shocking nature,—an example so horrid, that, if I conceived my country would passively permit a repetition of it, dear as it is to me, I would seek means of expatriating myself from it. A man who was then a citizen, was deprived of his life thus: from a mere reliance on general reports, a gentleman in the House of Delegates informed the house that a certain man (Josiah Philips) had committed several crimes, and was running at large perpetrating other crimes. He therefore moved leave to attaint him; he obtained that leave instantly; no sooner did he obtain it, than he drew

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monwealth, within the same, committing murders, burning houses, wasting farms and still continue to exercise the same enormities on the good people of this commonwealth : and whereas the delays which would attend the proceeding to outlaw the said offenders according to the usual forms and procedures of the courts of law, would leave the said good people for a long time exposed to murder & devastation.

Be it therefore enacted by the General Assembly that if the said Josiah Philips his associates and confederates shall not on

from his pocket a bill ready written for that effect ; it was read three times in one day and carried to the Senate. I will not say that it passed the same day through the Senate ; but he was attainted very speedily and precipitately, without any proof better than these vague reports. Without being confronted with his accusers and witnesses, without the privilege of calling evidence on his behalf, he was sentenced to death, and was afterwards actually executed." To this Henry replied (*Elliot*, III, 140): " The honorable member has given you an elaborate account of what he judges tyrannical legislation, and an *ex post facto law*, (in the case of Josiah Philips). He has misrepresented the facts. That man was not executed by a tyrannical stroke of power. Nor was he a Socrates. He was a fugitive murderer and an outlaw—a man who commanded an infamous banditti, and at a time when the war was at the most perilous stage. He committed the most cruel and shocking barbarities. He was an enemy to the human name. Those who declare war against the human race may be struck out of existence as soon as they are apprehended. He was not executed according to those beautiful legal ceremonies which are pointed out by the laws in criminal cases. The enormity of his crimes did not entitle him to it. I am truly a friend to legal forms and methods; but, sir, the occasion warranted the measure. A pirate, an outlaw, or a common enemy to all mankind, may be put to death at any time. It is justified by the laws of nature and nations."

Jefferson's attention was first called to these statements in reading the proof sheets of Girardin's *History of Virginia*. He at once wrote to Girardin (March 12, 1815):

" I return the three Cativers, which I have perused with the usual satisfaction. You will find a few pencilled notes merely verbal.

"But in one place I have taken a greater liberty than I ever took before, or ever indeed had occasion to take. It is in the case of Josiah Philips, which I find strangely represented by Judge Tucker and Mr. Edmund Randolph, and very negligently vindicated by Mr. Henry. That case is personally known to me, because I was of the legislature at the time, was one of those consulted by Mr. Henry, and had my share in the passage of the bill. I never before saw the observations of those gentlemen, which you quote on this case, and will now therefore briefly make some strictures on them.

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or before the day of June in this present year render themselves to the Governor or to some member of the privy council, judge of the General court, justice of the peace or commissioned officer of the regular troops, navy, or militia of this commonwealth in order to their trials for the treasons, murders & other felonies by them committed, that then such of them the said Josiah Philips his associates and confederates as shall not so render him or themselves, shall stand and be convicted and attainted of high treason, and shall suffer the pains of death, and

"Judge Tucker, instead of a definition of the functions of bills of attainder, has given a diatribe against their abuse. The occasion and proper office of a bill of attainder is thus: When a person charged with a crime withdraws from justice, or resists it by force, either in his own or a foreign country, no other means of bringing him to trial or punishment being practicable, a special act is passed by the legislature adapted to the particular case. This prescribes to him a sufficient time to appear and submit to a trial by his peers; declares that his refusal to appear shall be taken as a confession of guilt, as in the ordinary case of an offender at the bar refusing to plead, and pronounces the sentence which would have been rendered on his confession or conviction in a court of law. No doubt that these acts of attainder have been abused in England as instruments of vengence by a successful over a defeated party. But what institution is insusceptible of abuse in wicked hands?

"Again, the judge says 'the court refused to pass sentence of execution pursuant to the direction of the act.' The court could not refuse this, because it was never proposed to them; and my authority for this assertion shall be presently given.

"For the perversion of a fact so intimately known to himself, Mr. Randolph can be excused only by our indulgence for orators who, pressed by a powerful adversary, lose sight, in the ardor of conflict of the rigorous accuracies of fact, and permit their imagination to distort and color them to the views of the moment. He was Attorney-General at the time, and told me himself, the first time I saw him after the trial of Philips, that when taken and delivered up to justice, he had thought it best to make no use of the act of attainder, and to take no measure under it; that he had indicted him at the common law either for murder or robbery (I forgot which and whether for both); that he was tried on this indictment in the ordinary way, found guilty by the jury, sentenced and executed under the common law; a course which every one approves, because the first object of the act of attainder was to bring him to fair trial. Whether Mr. Randolph was right in this information to me, or when in the debate with Mr. Henry, he represents this atrocious offender as sentenced and executed under the act of attainder, let the record of the case decide.

"'Without being confronted with his accusers and witnesses, without the privi-

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incur all forfeitures, penalties & disabilities prescribed by the law against those convicted & attainted of High-treason: and that execution of this sentence of attainder shall be done by order of the General Court to be entered so soon as may be conveniently after notice that any of the said offenders are in custody of the keeper of the public gaol, and if any person committed to the custody of the keeper of the public gaol, as an associate or confederate of the sd Josiah Philips shall alledge that he hath not been of his associates or confederates at any time after the

lege of calling for evidence in his behalf, he was sentenced to death, and afterwards actually executed.' I appeal to the universe to produce one single instance from the first establishment of government in this State to the present day, where, in a trial at bar, a criminal has been refused confrontation with his accusers and witnesses, or denied the privilege of calling for evidence in his behalf; had it been done in this case, I would have asked of the Attorney-General why he proposed or permitted it. But without having seen the record, I will venture on the character of our courts, to deny that it was done. But if Mr. Randolph meant only that Philips had not these advantages on the passage of the bill of attainder, how idle to charge the legislature with omitting to confront the culprit with his witnesses, when he was standing out in arms and in defiance of their authority, and their sentence was to take effect only on his own refusal to come in and be confronted. We must either therefore consider this as a mere hyperbolism of imagination in the heat of debate, or what I should rather believe, a defective statement by the reporter of Mr. Randolph's argument. I suspect this last the rather because this point in the charge of Mr. Randolph is equally omitted in the defence of Mr. Henry. This gentleman must have known that Philips was tried and executed under the common law, and yet, according to his report, he rests his defence on a justification of the attainder only. But all who knew Mr. Henry, know that when at ease in argument, he was sometimes careless, not giving himself the trouble of ransacking either his memory or imagination for all the topics of his subject or his audience that of hearing them. No man on earth knew better when he had said enough for his hearers.

"Mr. Randolph charges us with having read the bill three times in the same day. I do not remember the fact, nor whether this was enforced on us by the urgency of the ravages of Philips, or of the time at which the bill was introduced. I have some idea it was at or near the close of the session; the journals, which I have not, will ascertain the fact.

"After the particular strictures I will proceed to propose, 1st, that the word 'substantially,' page 92, l. 8., be changed for 'which has been charged with' (subjoining a note of reference. 1. Tucker's Blackst. Append., 292. Debates of Virginia Convention).

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day of in the year of our lord at which time the sd murders & devastations were begun, a petty jury shall be summoned & charged according to the forms of the law to try in presence of the said court the fact so alledged; and if it be found against the defendant, execution of this act shall be done as before directed.

And that the good people of this commonwealth may not in the mean-time be subject to the unrestrained hostilities of the said insurgents, be it further enacted that from and after the passing

"2. That the whole of the quotations from Tucker, Randolph and Henry, be struck out, and instead of the text beginning page 92 l. 12, with the words 'bills of attainder, &c.,' to the words 'so often merited,' page 95 l. 4, be inserted the following, to-wit:

"'This was passed on the following occasion. A certain Joshua Philips, laborer of the parish of Lynhaven, in the county of Princess Anne, a man of daring and ferocious disposition, associating with other individuals of a similar cast, spread terror and desolation through the lower country, committing murders, burning houses, wasting farms, and perpetrating other enormities, at the bare mention of which humanity shudders. Every effort to apprehend him proved abortive. Strong in the number of his ruffian associates, or where force would have failed resorting to stratagem and ambush, striking the deadly blow or applying the fatal torch at the midnight hour, and in those places which their insulated situation left almost unprotected, he retired with impunity to his secret haunts, reeking with blood and loaded with plunder. [So far the text of Mr. Girardin is preserved.] The inhabitants of the counties which were the theatre of his crimes, never secure a moment by day or by night, in their fields or their beds, sent representations of their distresses to the governor, claiming the public protection. He consulted with some members of the legislature then sitting, on the best method of proceeding against the atrocious offender. Too powerful to be arrested by the sheriff and his *posse comitatus*, it was not doubted but an armed force might be sent to hunt and destroy him and his accomplices in their morasses and fastness wherever found. But the proceeding concluded to be most consonant with the forms and principles of our government, was that the legislature should pass an act giving him a reasonable but limited day to surrender himself to justice, and to submit to a trial by his peers. According to the laws of the land, to consider a refusal as a confession of guilt, and divesting him as an outlaw of the character of citizen, to pass on him the sentence prescribed by the law; and the public officer being defied, to make every one his deputy, and especially those whose safety hourly depended on his destruction. The case was laid before the legislature, the proofs were ample, his outrages as notorious as those of the public enemy, and well known to the members of both houses from those counties.

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of this act it shall be lawful for any person with or without orders, to pursue and slay the said Josiah Philips and any others who have been his associates or confederates at any time after the sd day of aforesaid and shall not have previously rendered him or themselves to any of the officers civil or military before described, or otherwise to take and deliver them to justice to be dealt with according to law.

Provided that the person so slain be in arms at the time or endeavoring to escape being taken.

No one pretended then that the perpetrator of crimes who could successfully resist the officers of justice, should be protected in the continuance of them, by the privileges of his citizenship, and that baffling ordinary process, nothing extraordinary could be rightfully adopted to protect the citizens against him. No one doubted that society had a right to erase from the role of its members any one who rendered his own existence inconsistent with theirs; to withdraw from him the protection of their laws, and to remove him from among them by exile, or even by death if necessary. An enemy in lawful war, putting to death in cold blood the prisoner he has taken, authorizes retaliation, which would be inflicted with peculiar justice on the individual guilty of the deed, were it to happen that he should be taken. And could the murders and robberies of a pirate or outlaw entitle him to more tenderness? They passed the law, therefore, and without opposition. He did not come in before the day prescribed; continued his lawless outrages; was afterwards taken in arms, but delivered over to the ordinary justice of the county. The Attorney-General for the commonwealth, the immediate agent of the government, waiving all appeal to the act of attainder, indicted him at the common law as a murderer and robber. He was arraigned on that indictment in the usual forms, before a jury of his vicinage, and no use whatever made of the act of attainder in any part of the proceedings. He pleaded that he was a British subject, authorized to bear arms by a commission from Lord Dunmore; that he was therefore a mere prisoner of war, and under the protection of the law of nations. The court being of opinion that a commission from an enemy could not protect a citizen in deeds of murder and robbery, over-ruled his plea; he was found guilty by his jury, sentenced by the court, and executed by the ordinary officer of justice, and all according to the forms and rules of the common law.'

"I recommend an examination of the records for ascertaining the facts of this case, for although my memory assures me of the leading ones, I am not so certain in my recollection of the details. I am not sure of the character of the particular crimes committed by Philips, or charged in his indictment, whether his plea of alien enemy was formally put in and over-ruled, what were the specific provisions of the act of attainder, the urgency which caused it to be read three times in one day, if the fact were, &c., &c."

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TO RICHARD HENRY LEE.[1]

WILLIAMSBURG, June 5, 1778.

DEAR SIR,—I am now to acknowledge the receipt of two of your favors, during the session of Assembly, but there being little to communicate to you, and that, being a busy time with me, has prevented my doing it sooner. The Assembly rose on Monday last; their only act which can shortly aid our army, was one for raising a regiment of horse, which, I think, will be raised as fast as it can be accoutred. Another act they passed, will also produce aid to our army, I hope, but it will be some [delay?] first; it was for giving great encouragement to soldiers, and appointing recruiting officers all over the country, to attend all publick places. By a third act, they foolishly repeated the experiment of raising volunteers; the first attempt was pardonable, because its ill-success could not be foreseen; the second is worse than ridiculous, because it may deceive our friends; I am satisfied there will not be a company raised. I wish Congress would commute a good part of the infantry required from us, for an equivalent force in horse. This service opens us a new fund of young men, who have not yet stepped forth; I mean those whose indolence or education, has unfitted them for foot service; this may be worth your thinking of. We passed the bill of pardon, recommended by Congress, but the Senate rejected it. Your letter, about enlarging your powers over the confederation, was not proceeded on, because the nature of the enlargement was not chalked

[1] From Lee's *Life of R. H. Lee*, II, 187.

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out by you so intelligibly as enabled the house to do anything, unless they had given a carteblanche. Indeed, I believe, that, had the alterations proposed been specified unless they had been mere form indeed, it might have been difficult to obtain their consent. A Frenchman arrived here a week ago, with a vast cargo of woolens, made and unmade, stockings, shoes, &c. fit for the army, fifty thousand weight of powder, and other articles; the master had once sold the whole cargo, to the governor and council, for 5s 3p the livre, first cost; but, on suggestions from some of our forestallers, and those from Maryland, he flew off. Our bay is clear of the enemy. Nothing new here. I set out for Albemarle, within a day or two. Mr. Harvie will be with you in about three weeks. My complements to your brethren of the delegation, and am, dear sir, Your friend and servant,

TO ———. J. MSS.

WILLIAMSBURG IN VIRGINIA, June 8, 1778.

SIR,—Your letter of Sep. 15. 1777 from Paris comes safe to hand. We have not however had the pleasure of seeing Mr. De Cenis, the bearer of it in this country, as he joined the army in Pennsylvania as soon as he arrived. I should have taken particular pleasure in serving him on your recommendation. From the kind anxiety expressed in your letter as well as from other sources of information we discover that our enemies have filled Europe with Thrasonic accounts of victories they had never won and conquests they were

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fated never to make. While these accounts alarmed our friends in Europe they afforded us diversion. We have long been out of all fear for the event of the war. I enclose you a list of the killed, wounded, and captives of the enemy from the commencement of hostilities at Lexington in April, 1775, until November, 1777, since which there has been no event of any consequence. This is the best history of the war which can be brought within the compass of a letter. I believe the account to be near the truth, tho' it is difficult to get at the numbers lost by an enemy with absolute precision. Many of the articles have been communicated to us from England as taken from the official returns made by their General. I wish it were in my power to send you as just an account of our loss. But this cannot be done without an application to the war office which being in another county is at this time out of my reach. I think that upon the whole it has been about one half the number lost by them, in some instances more, but in others less. This difference is ascribed to our superiority in taking aim when we fire; every soldier in our army having been intimate with his gun from his infancy. If there could have been a doubt before as to the event of the war it is now totally removed by the interposition of France, & the generous alliance she has entered into with us. Tho' much of my time is employed in the councils of America I have yet a little leisure to indulge my fondness for philosophical studies. I could wish to correspond with you on subjects of that kind. It might not be unacceptable to you to be in-

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formed for instance of the true power of our climate as discoverable from the thermometer, from the force & direction of the winds, the quantity of rain, the plants which grow without shelter in winter &c. On the other hand we should be much pleased with cotemporary observations on the same particulars in your country, which will give us a comparative view of the two climates. Farenheit's thermometer is the only one in use with us, I make my daily observations as early as possible in the morning & again about 4 o'clock in the afternoon, these generally showing the maxima of cold & heat in the course of 24 hours. I wish I could gratify your Botanical taste; but I am acquainted with nothing more than the first principles of that science; yet myself & my friends may furnish you with any Botanical subjects which this country affords, and are not to be had with you; and I shall take pleasure in procuring them when pointed out by you. The greatest difficulty will be the means of conveyance during the continuance of the war.

If there is a gratification which I envy any people in this world, it is to your country its music. This is the favorite passion of my soul, & fortune has cast my lot in a country where it is in a state of deplorable barbarism. From the line of life in which we conjecture you to be, I have for some time lost the hope of seeing you here. Should the event prove so, I shall ask your assistance in procuring a substitute, who may be a proficient in singing, & on the Harpsichord. I should be contented to receive such an one two or three years hence, when it is hoped he

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may come more safely and find here a greater plenty of those useful things which commerce alone can furnish. The bounds of an American fortune will not admit the indulgence of a domestic band of musicians, yet I have thought that a passion for music might be reconciled with that economy which we are obliged to observe. I retain for instance among my domestic servants a gardener (Ortolans), a weaver (Tessitore di lino e lin), a cabinet maker (Stipeltaio) and a stone cutter (Scalpellino laborante in piano)to which I would add a vigneron. In a country where like yours music is cultivated and practised by every class of men I suppose there might be found persons of those trades who could perform on the French horn, clarinet or hautboy & bassoon, so that one might have a band of two French horns, two clarinets, & hautboys & a bassoon, without enlarging their domestic expenses. A certainty of employment for a half dozen years, and at the end of that time to find them if they choose a conveyance to their own country might induce them to come here on reasonable wages. Without meaning to give you trouble, perhaps it might be practicable for you in [your] ordinary intercourse with your people, to find out such men disposed to come to America. Sobriety and good nature would be desirable parts of their characters. If you think such a plan practicable, and will be so kind as to inform me what will be necessary to be done on my part I will take care that it shall be done. The necessary expenses, when informed of them, I can remit before they are wanting,

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to any port in France, with which country alone we have safe correspondence. I am Sir with much esteem your humble servant.

RESOLUTIONS CONCERNING PEACE WITH ENGLAND.[1]

J. MSS.

[June ?, 1778.]

Resolved unanimously that a proposition from the Enemy to all or any of these United States for Peace or truce separate from their Allies is insidious and inadmissable.

Resolved unanimously that a proposition from the enemy for treating with any Assembly or Body of men in America other than the Congress of these United States is insidious and inadmissable.

Resolved unanimously that this Assembly will not listen to any Proposition nor suffer any Negotiation inconsistent with their National Faith and federal union.

Resolved unanimously that this assembly will exert the utmost Power of the State to carry on the War with vigour and effect until Peace shall be obtained in a manner consistent with our National Faith and Federal Union.

TO REV. SAMUEL HENLEY.[2]

WILLIAMSBURGH, June 9, 1778.

REVEREND SIR,—Mr. Madison I believe informed you by letter written some time ago that one of your boxes of books left in his care burst open in removing

[1] This is endorsed in the handwriting of Edmund Pendleton: "Virginia v. Com:r Carlton [Carlisle] Caveat agt Treaty—I believe, but am not certain, these were the work of Mr. Jefferson in Spring 1778." No such resolutions appear on the *Journal of the House of Delegates*.

[2] From a copy courteously furnished by Hon. John Boyd Thacher, of Albany.

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it from the college to the president's house for greater security. This accident discovered them to be in a state of ruin. They had contracted a dampness & stuck together in large blocks, insomuch that they could not sometimes be separated without tearing the cover. I happened to be in town & was of opinion with Mr. Madison that it was necessary to overhaul them and give them air. Indeed we both thought—I think it would be for your interest to have them sold, as books are now in considerable demand here, and, packed as they are in boxes, they must sustain injury. There are many of them which I would be glad to take myself at their stirling cost and would remit you the money by the way of France. That cost might be fixed either by note from yourself, informing me what they cost you, or by the estimate of anybody here in whom you trust. Upon a presumption that you could not but approve of the proposal to have them disposed of & the money remitted, for the reasons before given & others which you may apprehend but would be improper for me to explain, I have taken the liberty of laying apart many of them for myself, leaving with Mr. Madison a catalogue of them, and ready to return them to him if you shall direct it. I shall be glad of your answer as soon as possible, and will gladly serve you in the care of any interest you may have left here. The reasons are obvious which restrain this letter to matters of business. As soon as the obstacles to friendly correspondence are removed I shall be glad at all times to hear from you. I am Reverend Sir

Your friend & servant

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TO DAVID RITTENHOUSE.[1]

MONTICELLO IN ALBEMARLE, VIRGINIA,
July 19. 1778.

DEAR SIR,—I sincerely congratulate you on the recovery of Philadelphia, and wish it may be found uninjured by the enemy—how far the interests of literature may have suffered by the injury or removal of the Orrery (as it is miscalled) the publick libraries, your papers & implements, are doubts which still excite anxiety. We were much disappointed in Virginia generally on the day of the great eclipse, which proved to be cloudy. In Williamsburgh, where it was total, I understand only the beginning was seen. At this place which is in Lat. 38°–8′ and Longitude West from Williamsburgh about 1°–45′ as is conjectured, eleven digits only were supposed to be covered, as it was not seen at all till the moon had advanced nearly one third over the sun's disc. Afterwards it was seen at intervals through the whole. The egress particularly was visible. It proved however of little use to me for want of a time piece that could be depended on; which circumstance, together with the subsequent restoration of Philadelphia to you, has induced me to trouble you with this letter to remind you of your kind promise of making me an accurate clock; which being intended for astronomical purposes only, I would have divested of all apparatus for striking or for any other purpose, which by increasing it's

[1] From the original in the possession of the Historical Society of Pennsylvania.

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complication might disturb it's accuracy. A companion to it, for keeping seconds, and which might be moved easily, would greatly add to it's value. The theodolite, for which I spoke to you also, I can now dispense with, having since purchased a most excellent one.

Writing to a philosopher, I may hope to be pardoned for intruding some thoughts of my own tho' they relate to him personally. Your time for two years past has, I believe, been principally employed in the civil government of your country. Tho' I have been aware of the authority our cause would acquire with the world from it's being known that yourself & Doct^r^ Franklin were zealous friends to it and am myself duly impressed with a sense of the arduousness of government, and the obligation those are under who are able to conduct it, yet I am also satisfied there is an order of geniusses above that obligation, & therefore exempted from it, nobody can conceive that nature ever intended to throw away a Newton upon the occupations of a crown. It would have been a prodigality for which even the conduct of providence might have been arraigned, had he been by birth annexed to what was so far below him. Cooperating with nature in her ordinary economy we should dispose of and employ the geniusses of men according to their several orders and degrees. I doubt not there are in your country many persons equal to the task of conducting government: but you should consider that the world has but one Ryttenhouse, & that it never had one before. The amazing mechanical representation of the solar system

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which you conceived & executed, has never been surpassed by any but the work of which it is a copy. Are those powers then, which being intended for the erudition of the world are, like air and light, the world's common property, to be taken from their proper pursuit to do the commonplace drudgery of governing a single state, a work which may be executed by men of an ordinary stature, such as are always & everywhere to be found? Without having ascended mount Sinai for inspiration, I can pronounce that the precept, in the decalogue of the vulgar, that they shall not make to themselves "the likeness of anything that is in the heavens above" is reversed for you, and that you will fulfill the highest purposes of your creation by employing yourself in the perpetual breach of that inhibition. For my own country in particular you must remember something like a promise that it should be adorned with one of them. The taking of your city by the enemy has hitherto prevented the proposition from being made & approved by our legislature. The zeal of a true whig in science must excuse the hazarding these free thoughts, which flow from a desire of promoting the diffusion of knowledge & of your fame, and from one who can assure you truly that he is with much sincerity & esteem Your most obed^{t} & most humble serv^{t}

P. S. If you can spare as much time as to give me notice of the receipt of this, & what hope I may form of my clocks, it will oblige me. If sent to Fredericksburgh it will come safe to hand.

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A BILL FOR GIVING THE MEMBERS OF THE ASSEMBLY AN ADEQUATE ALLOWANCE.[1] V. S. A.

[Dec. 12, 1778.]

Whereas it is just that members of General assembly, delegated by the people to transact for them the legislative business, should, while attending that business, have their reasonable sustenance defrayed, dedicating to the public service their time and labors freely & without account: and it is also expedient that the public councils should not be deprived of the aid of good & able men, who might be deterred from entering into them by the insufficiency of their private fortunes to be the extraordinary expences they must necessarily incur:

And it being inconsistent with the principles of civil liberty, & contrary to the natural rights of the other members of the society, that any body of men therein should have authority to enlarge their own powers, prerogatives, or emoluments without restraint the sd General assembly cannot at their own will increase the allowance which their members are to draw from the public treasury for their expences while in assembly; but to enable them so do to an application to the body of the people has become necessary:

And such application having been accordingly made to the freeholders of the several counties, & they having thereupon consented that the sd allowance shall be enlarged, and authorised & instructed their members to enlarge the same for themselves & the members of all future assemblies, to pounds of nett tobacco by the day for attendance on assembly, & to lbs of like tobacco for every mile they must necessarily travel going to or from the same, together with their ferriages, to be paid in money out of the public treasury at such rate as shall be estimated by the court of appeals at their session next before the

[1] Dec. 8th Jefferson, Nelson, G. Mason, T. Mason, Nicholas, and Page were ordered to prepare this bill, and G. Mason introduced it Dec. 12th. It was read for the second time on Dec. 14th, and ordered engrossed and printed on Dec. 18th. It was not adopted. This is printed from the draft in Jefferson's handwriting.

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meeting of every session of assembly, governing themselves in the said estimate by the worth of the sd tobacco, & the competence of the same to defray the necessary expences of travelling & attendance:

Be it therefore enacted by the General assembly by express authority & instruction from the body of the people that the allowance to the several members of the present & of all future assemblies shall be of pounds of tobacco by the day for attendance on the sd assemblies, lbs of the like tobacco for every mile they must necessarily travel going to or from the same, together with their ferriages; to be paid to them in money out of the public treasury at such rate as shall be estimated by the court of appeals at their session next before the meeting of each respective session of assembly, governing themselves in the said estimate by the worth of the sd tobacco & the competence of the same to defray the necessary expences of travelling & attendance.

TO GEORGE WYTHE. J. MSS.

FOREST, March 1, 1779.

DEAR SIR,—Since I left you I have reflected on the bill regulating the practising of attornies, & of our omitting to continue the practitioners at the County & General Courts separate. I think the bar of the General Court a proper & an excellent nursery for future judges if it be so regulated as that science may be encouraged & may live there. But this can never be if an inundation of insects is permitted to come from the county courts & consume the harvest. These people traversing the counties seeing the clients frequently at their own courts, or, perhaps at their own houses must of necessity pick up all the business. The convenience of frequently seeing their

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counsel without going from home cannot be withstood by the country people. Men of science then (if there were to be any) would only be employed as auxiliary counsel in difficult cases. But can they live by that? Certainly not. The present members of that kind therefore must turn marauders in the county courts; & in future none will have leisure to acquire science. I should therefore be for excluding the county court attorneys, or rather for taking the general court lawyers from the incessant drudgery of the county courts & confining them to their studies that they may qualify themselves as well to support their clients as to become worthy successors to the bench. I hope to see the time when the election of Judges of the Supreme Courts shall be restrained to the bars of the General Court & High Court of Chancery, for when I speak of the former above, I mean to include the latter. I should even in our present bills have no objections to inserting such a restriction to take place seven or fourteen years hence. Adieu.

TO THE GOVERNOR OF VIRGINIA. J. MSS.
(PATRICK HENRY.)

ALBEMARLE, March 27, 1779.

SIR,—A report prevailing here, that in consequence of some powers from Congress, the Governor and Council have it in contemplation to remove the Convention troops, either wholly or in part, from their present situation, I take the liberty of troubling you with some observations on that subject. The

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reputation and interest of our country, in general, may be affected by such a measure: it would, therefore, hardly be deemed an indecent liberty in the most private citizen, to offer his thoughts to the consideration of the Executive. The locality of my situation, particularly in the neighborhood of the present barracks, and the public relation in which I stand to the people among whom they are situated, together with a confidence which a personal knowledge of the members of the Executive gives me, that they will be glad of information from any quarter, on a subject interesting to the public, induce me to hope that they will acquit me of impropriety in the present representation.

By an article in the Convention of Saratoga, it is stipulated, on the part of the United States, that the officers shall not be separated from their men. I suppose the term officers, includes *general* as well as *regimental* officers. As there are general officers who command all the troops, no part of them can be separated from these officers without a violation of the article: they cannot, of course, be separated from one another, unless the same general officer could be in different places at the same time. It is true, the article adds the words, "as far as circumstances will admit." This was a necessary qualification; because, in no place in America, I suppose, could there have been found quarters for both officers and men together; those for the officers to be according to their rank. So far, then, as the circumstances of the place where they should be quartered, should render a

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separation necessary, in order to procure quarters for the officers, according to their rank, the article admits that separation. And these are the circumstances which must have been under the contemplation of the parties; both of whom, and all the world beside (who are ultimate judges in the case), would still understand that they were to be as near in the environs of the camp, as convenient quarters could be procured; and not that the qualification of the article destroyed the article itself, and laid it wholly at our discretion. Congress, indeed, have admitted of this separation; but are they so far lords of right and wrong as that our consciences may be quiet with their dispensation? Or is the case amended by saying they leave it optional in the Governor and Council to separate the troops or not? At the same time that it exculpates not them, it is drawing the Governor and Council into a participation in the breach of faith. If indeed it is only proposed, that a separation of the troops shall be referred to the consent of their officers; that is a very different matter. Having carefully avoided conversation with them on public subjects, I cannot say, of my own knowledge, how they would relish such a proposition. I have heard from others, that they will choose to undergo anything together, rather than to be separated, and that they will remonstrate against it in the strongest terms. The Executive, therefore, if voluntary agents in this measure, must be drawn into a paper war with them, the more disagreeable, as it seems that faith and reason will be on the other side. As an American, I cannot help

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feeling a thorough mortification, that our Congress should have permitted an infraction of our public honor; as a citizen of Virginia, I cannot help hoping and confiding, that our Supreme Executive, whose acts will be considered as the acts of the Commonwealth, estimate that honor too highly to make its infraction their own act. I may be permitted to hope, then, that if any removal takes place, it will be a general one; and, as it is said to be left to the Governor and Council to determine on this, I am satisfied that, suppressing every other consideration, and weighing the matter dispassionately, they will determine upon this sole question, Is it for the benefit of those for whom they act, that the Convention troops should be removed from among them? Under the head of interest, these circumstances, viz., the expense of building barracks, said to have been £25,000, and of removing the troops backwards and forwards, amounting to, I know not how much, are not to be permitted, merely because they are Continental expenses; for we are a part of the Continent; we must pay a shilling of every dollar wasted. But the sums of money which, by these troops, or on their account, are brought into, and expended in this State, are a great and local advantage. This can require no proof. If, at the conclusion of the war, for instance, our share of the Continental debt should be twenty millions of dollars, or say that we are called on to furnish an annual quota of two millions four hundred thousand dollars, to Congress, to be raised by tax, it is obvious that we should raise these given sums with greater or

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less ease, in proportion to the greater or less quantity of money found in circulation among us. I expect that our circulating money is [increased ?], by the presence of these troops, at the rate of $30,000 a week, at the least. I have heard, indeed, that an objection arises to their being kept within this State, from the information of the commissary that they cannot be subsisted here. In attending to the information of that officer, it should be borne in mind that the county of King William and its vicinities are one thing, the territory of Virginia another. If the troops could be fed upon long letters, I believe the gentleman at the head of that department in this country, would be the best commissary upon earth. But till I see him determined to act, not to write; to sacrifice his domestic ease to the duties of his appointment, and apply to the resources of this country, wheresoever they are to be had, I must entertain a different opinion of him. I am mistaken if, for the animal subsistence of the troops hitherto, we are not principally indebted to the genius and exertions of Hawkins, during the very short time he lived after his appointment to that department, by your board. His eye immediately pervaded the whole State, it was reduced at once to a regular machine, to a system, and the whole put into movement and animation by the fiat of a comprehensive mind. If the Commonwealth of Virginia cannot furnish these troops with bread, I would ask of the commissariat, which of the thirteen is now become the grain colony? If we are in danger of famine from the addition of four thousand mouths, what is become

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of that surplus of bread, the exportation of which used to feed the West Indies and Eastern States, and fill the colony with hard money? When I urge the sufficiency of this State, however, to subsist these troops, I beg to be understood, as having in contemplation the quantity of provisions necessary for their real use, and not as calculating what is to be lost by the wanton waste, mismanagement, and carelessness of those employed about it. If magazines of beef and pork are suffered to rot by slovenly butchering, or for want of timely provision and sale; if quantities of flour are exposed, by the commissaries entrusted with the keeping it, to pillage and destruction; and if, when laid up in the Continental stores, it is still to be embezzled and sold, the land of Egypt itself would be insufficient for their supply, and their removal would be necessary, not to a more plentiful country, but to more able and honest commissaries. Perhaps the magnitude of this question, and its relation to the whole State, may render it worth while to await the opinion of the National Council, which is now to meet within a few weeks. There is no danger of distress in the meantime, as the commissaries affirm they have a great sufficiency of provisions for some time to come. Should the measure of removing them into another State be adopted, and carried into execution, before the meeting of Assembly, no disapprobation of theirs will bring them back, because they will then be in the power of others, who will hardly give them up.

Want of information as to what may be the precise measure proposed by the Governor and Council,

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obliges me to shift my ground, and take up the subject in every possible form. Perhaps, they have not thought to remove the troops out of this State altogether, but to some other part of it. Here, the objections arising from the expenses of removal, and of building new barracks, recur. As to animal food, it may be driven to one part of the country as easily as to another: that circumstance, therefore, may be thrown out of the question. As to bread, I suppose they will require about forty or forty-five thousand bushels of grain a year. The place to which it is to be brought to them, is about the centre of the State. Besides, that the country round about is fertile, all the grain made in the counties adjacent to any kind of navigation, may be brought by water to within twelve miles of the spot. For these twelve miles, wagons must be employed; I suppose half a dozen will be a plenty. Perhaps, this part of the expense might have been saved, had the barracks been built on the water; but it is not sufficient to justify their being abandoned now they are built. Wagonage, indeed, seems to the commissariat an article not worth economising. The most wanton and studied circuity of transportation has been practised: to mention only one act, they have bought quantities of flour for these troops in Cumberland, have ordered it to be wagoned down to Manchester, and wagoned thence up to the barracks. This fact happened to fall within my own knowledge. I doubt not there are many more such, in order either to produce their total removal, or to run up the expenses of the present situation, and

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satisfy Congress that the nearer they are brought to the commissary's own bed, the cheaper they will be subsisted. The grain made in the western counties may be brought partly in wagons, as conveniently to this as to any other place; perhaps more so, on account of its vicinity to one of the best passes through the Blue Ridge; and partly by water, as it is near to James river, to the navigation of which, ten counties are adjacent above the falls. When I said that the grain might be brought hither from all the counties of the State adjacent to navigation, I did not mean to say it would be proper to bring it from all. On the contrary, I think the commissary should be instructed, after the next harvest, not to send one bushel of grain to the barracks from below the falls of the rivers, or from the northern counties. The counties on tide water are accessible to the calls for our own army. Their supplies ought, therefore, to be husbanded for them. The counties in the northwestern parts of the State are not only within reach for our own grand army, but peculiarly necessary for the support of Macintosh's army; or for the support of any other northwestern expedition, which the uncertain conduct of the Indians should render necessary; insomuch, that if the supplies of that quarter should be misapplied to any other purpose, it would destroy, in embryo, every exertion, either for particular or general safety there. The counties above tide water, in the middle and southern and western parts of the country, are not accessible to calls for either of those purposes, but at such an expense of transportation as

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the article would not bear. Here, then, is a great field, whose supplies of bread cannot be carried to our army, or rather, which will raise no supplies of bread, because there is nobody to eat them. Was it not, then, wise in Congress to remove to that field four thousand idle mouths, who must otherwise have interfered with the pasture of our own troops? And, if they are removed to any other part of the country, will it not defeat this wise purpose? The mills on the waters of James river, above the falls, open to canoe navigation, are very many. Some of them are of great note, as manufacturers. The barracks are surrounded by mills. There are five or six round about Charlottesville. Any two or three of the whole might, in the course of the winter, manufacture flour sufficient for the year. To say the worst, then, of this situation, it is but twelve miles wrong. The safe custody of these troops is another circumstance worthy consideration. Equally removed from the access of an eastern or western enemy; central to the whole State, so that should they attempt an irruption in any direction, they must pass through a great extent of hostile country; in a neighborhood thickly inhabited by a robust and hardy people zealous in the American cause, acquainted with the use of arms, and the defiles and passes by which they must issue: it would seem, that in this point of view, no place could have been better chosen.

Their health is also of importance. I would not endeavor to show that their lives are valuable to us, because it would suppose a possibility, that humanity

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was kicked out of doors in America, and interest only attended to. The barracks occupy the top and brow of a very high hill, (you have been untruly told they were in a bottom.) They are free from bog, have four springs which seem to be plentiful, one within twenty yards of the piquet, two within fifty yards, and another within two hundred and fifty, and they propose to sink wells within the piquet. Of four thousand people, it should be expected, according to the ordinary calculations, that one should die every day. Yet, in the space of near three months, there have been but four deaths among them; two infants under three weeks old, and two others by apoplexy. The officers tell me, the troops were never before so healthy since they were embodied.

But is an enemy so execrable, that, though in captivity, his wishes and comforts are to be disregarded and even crossed? I think not. It is for the benefit of mankind to mitigate the horrors of war as much as possible. The practice, therefore, of modern nations, of treating captive enemies with politeness and generosity, is not only delightful in contemplation, but really interesting to all the world, friends, foes, and neutrals. Let us apply this: the officers, after considerable hardships, have all procured quarters, comfortable and satisfactory to them. In order to do this, they were obliged, in many instances, to hire houses for a year certain, and at such exorbitant rents, as were sufficient to tempt independent owners to go out of them, and shift as they could. These houses, in most cases, were much out of repair.

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They have repaired them at a considerable expense. One of the general officers has taken a place for two years, advanced the rent for the whole time, and been obliged, moreover, to erect additional buildings for the accommodation of part of his family, for which there was not room in the house rented. Independent of the brick work, for the carpentry of these additional buildings, I know he is to pay fifteen hundred dollars. The same gentleman, to my knowledge, has paid to one person three thousand six hundred and seventy dollars for different articles to fix himself commodiously. They have generally laid in their stocks of grain and other provisions, for it is well known that officers do not live on their rations. They have purchased cows, sheep, &c., set in to farming, prepared their gardens, and have a prospect of comfort and quiet before them. To turn to the soldiers: the environs of the barracks are delightful, the ground cleared, laid off in hundreds of gardens, each enclosed in its separate paling; these well prepared, and exhibiting a fine appearance. General Riedezel alone laid out upwards of two hundred pounds in garden seeds for the German troops only. Judge what an extent of ground these seeds would cover. There is little doubt that their own gardens will furnish them a great abundance of vegetables through the year. Their poultry, pigeons and other preparations of that kind, present to the mind the idea of a company of farmers, rather than a camp of soldiers. In addition to the barracks built for them by the public, and now very comfortable, they have built great numbers for

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themselves, in such messes as fancied each other; and the whole corps, both officers and men, seem now happy and satisfied with their situation. Having thus found the art of rendering captivity itself comfortable, and carried it into execution, at their own great expense and labor, their spirits sustained by the prospect of gratifications rising before their eyes, does not every sentiment of humanity revolt against the proposition of stripping them of all this, and removing them into new situations, where, from the advanced season of the year, no preparations can be made for carrying themselves comfortably through the heats of summer; and when it is known that the necessary advances for the conveniences already provided, have exhausted their funds and left them unable to make the like exertions anew. Again, review this matter, as it may regard appearances. A body of troops, after staying a twelvemonth at Boston, are ordered to take a march of seven hundred miles to Virginia, where, it is said, they may be plentifully subsisted. As soon as they are there, they are ordered on some other march, because, in Virginia, it is said, they cannot be subsisted. Indifferent nations will charge this either to ignorance, or to whim and caprice; the parties interested, to cruelty. They now view the proposition in that light, and it is said, there is a general and firm persuasion among them, that they were marched from Boston with no other purpose than to harass and destroy them with eternal marches. Perseverance in object, though not by the most direct way, is often more laudable than per-

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petual changes, as often as the object shifts light. A character of steadiness in our councils, is worth more than the subsistence of four thousand people.

There could not have been a more unlucky concurrence of circumstances than when these troops first came. The barracks were unfinished for want of laborers, the spell of weather the worst ever known within the memory of man, no stores of bread laid in, the roads, by the weather and number of wagons, soon rendered impassable: not only the troops themselves were greatly disappointed, but the people in the neighborhood were alarmed at the consequences which a total failure of provisions might produce. In this worst state of things, their situation was seen by many and disseminated through the country, so as to occasion a general dissatisfaction, which even seized the minds of reasonable men, who, if not affected by the contagion, must have foreseen that the prospect must brighten, and that great advantages to the people must necessarily arise. It has, accordingly, so happened. The planters, being more generally sellers than buyers, have felt the benefit of their presence in the most vital part about them, their purses, and are now sensible of its source. I have too good an opinion of their love of order to believe that a removal of these troops would produce any irregular proofs of their disapprobation, but I am well assured it would be extremely odious to them.

To conclude. The separation of these troops would be a breach of public faith, therefore I suppose it is impossible; if they are removed to another

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State, it is the fault of the commissaries; if they are removed to any other part of the State, it is the fault of the commissaries; and in both cases, the public interest and public security suffer, the comfortable and plentiful subsistence of our own army is lessened, the health of the troops neglected, their wishes crossed, and their comforts torn from them, the character of whim and caprice, or, what is worse, of cruelty, fixed on us as a nation, and, to crown the whole, our own people disgusted with such a proceeding.

I have thus taken the liberty of representing to you the facts and the reasons, which seem to militate against the separation or removal of these troops. I am sensible, however, that the same subject may appear to different persons, in very different lights. What I have urged as reasons, may, to sounder minds, be apparent fallacies. I hope they will appear, at least, so plausible, as to excuse the interposition of

Your Excellency's most obedient and most humble servant.

TO RICHARD HENRY LEE.[1]

MONTICELLO, April 21, 1779.

DEAR SIR,—Among the convention prisoners in this neighborhood is a Baron de Geismar of the Germans, brigade major to Genl. Gall, whose situation I would wish to make you acquainted with. He is the only son of a German nobleman, and has I

[1] From the original in the possession of Dr. Thomas Addis Emmet, of New York.

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believe an only sister; his father, now 70 years of age, if living; and excessively anxious to see him before his death. His Patrimonial expectations in danger of being transferred to others in the weak state of his father, or perhaps plundered in the case of his death; the footing on which he stands with his prince such as might give him reason to hope for protection were he on the spot, but everything of that kind certain of passing by him as long as he is absent. Under the circumstances, captivity is peculiarly injurious to him, & he petitions Congress to exchange him if possible, or otherwise permit him to return home on any parole they will describe. I am satisfied he will carry with him no disposition to injure us; and his personal merit, with which I am become intimately acquainted, entitles him to every indulgence consistent with the indispensable rules of Congress. I take the liberty of recommending his request to your sollicitations, as from a knowledge of the man I am become interested in his happiness. Whatever you can do for him will be considered as a peculiar obligation on Dr. Sir, Your friend & serv't.

TO GABRIEL JONES.[1]

MONTICELLO, April 29, 1779.

DEAR SIR,—By Mrs. Harvey I inclose to you the principle and interest of the money you were so kind as to lend me some years ago. It furnishes me also

[1] From *The Balance*, II, p. 194, 1803. On this matter was founded a very bitter attack on Jefferson. This loan was made in 1773. On Jones pressing for payment in 1779, Jefferson tendered him Continental currency, depreciated to

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with an occasion of acknowledging, with this, the many other obligations under which you have laid me, of which I shall always be proud to shew a due sense, whenever opportunities shall offer. I am, dear sir, with much esteem, your friend and servant.

A BILL CONCERNING ESCHEATS AND FORFEITURES FROM BRITISH SUBJECTS.[1] V. S. A.

[May 27, 1779.]

Whereas during the connection which subsisted between the now United States of America and the other parts of the British empire, & their subjection to one common prince the inhabitants

an extent which made this tender less than one quarter of the amount originally received. Jones preferred to refuse it entirely (though under the law the tender constituted payment) on the ground that in a personal debt such pretended payment was dishonorable and fictitious. Jefferson never replied to Jones' protest, but when in France, several years later, his agent made payment in full. The affair was first made public by J. T. Callender, in *The Recorder* of Dec. 8, 1802. This led to considerable controversy, and finally induced Jones to write a narrative of the transaction, which is in *The Recorder* of June 4, 1803. In the *National Intelligencer* of July 1, 1803 is a piece signed "Timoleon," in defence of Jefferson, which was undoubtedly inspired, if not written, by Jefferson. A broadside, signed "Veritas," was written and circulated by Philip Grymes, entitled *Letter to Gabriel Jones*, a copy of which is in the Library of Congress among the Jefferson pamphlets; and this produced a pamphlet entitled: *A Refutation of the Charges Made by a Writer under the Signature of "Veritas," against the Character of Gabriel Jones—the Lately Acknowledged Author being the Honorable Philip Grymes, Member of the Council of State,—in Which Every Charge or Insinuation against Him in that Libel is Fully and Clearly Refuted. Winchester: Printed by Richard Bowen*, [*1803*].

[1] On May 27, 1779, Jefferson was appointed to prepare this bill, and reported it the same day, when it was read for the first time. On the next day it was read for a second time, and committed to the Committee of the Courts of Justice. They reported it back with amendments on June 11th, when it was ordered engrossed, and passed. This is printed from the draft in Jefferson's handwriting, the act as adopted being in the *Sessions Acts* for May, 1779, and in *Hening*, X, 66. Another bill dealing with this matter is in the *Report of the Revisers*, p. 22.

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of either part had all the rights of natural born subjects in the other, & so might lawfully take & hold real property, and transmit the same by descent to their heirs in fee simple, which could not be done by mere aliens; and the inhabitants on each part had accordingly acquired real property in the other: and in like manner had acquired personal property which by their common laws might be possessed by any other than an alien enemy & transmitted to executors & administrators: but when by the tyrannies of that prince, & the open hostilities committed by his armies & subjects inhabitants of the other parts of his dominions on the good people of the sd United States they are obliged to wage war in defense of their rights & finally to separate themselves from the rest of the British empire, to renounce all subjection to their common prince, and to become sovereign & independent states, the sd inhabitants of the other parts of the British empire become aliens & enemies to the sd states, & as such, incapable of holding the property real or personal so acquired therein & so much thereof as was within this commonwealth became by the laws vested in the commonwealth.

Nevertheless the General assembly, tho' provoked by the example of their enemies to a departure from that generosity which so honourably distinguishes the civilized nations of the present age, yet desirous to conduct themselves with moderation & temper, by an act passed at their session in the year 1777 took measures for preventing what had been the property of British subjects within this commonwealth from waste & destruction, be putting the same into the hands & under the management of commissioners appointed for that purpose, that so it might be in their power, if reasonable at a future day, to restore to the former proprietors the full value thereof:

And whereas it is found that the sd property is liable to be lost, wasted & impaired without greater attention in the officers of government than is consistent with the discharge of their public duties and that from the advanced price at which the same would now sell, it may be most for the benefit of the former owners if the same should be restored to them hereafter, or to the public if not so restored, that the sale thereof should take place at this time, & the proceeds be lodged in the public treasury.

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Be it therefore enacted by the General assembly that so much of the act before mentioned as may be supposed to have suspended the operation of the law of escheats & forfeitures shall be hereby repealed & that all the property, real & personal within this commonwealth belonging at this time to any British subject, or which did belong to any British subject at the time such escheat or forfeiture may have taken place, shall be deemed to be vested in the commonwealth, the sd real estate by way of escheat & the said personal estate by forfeiture.

The Governor with the advice of council so far as their information will enable them, & the commissioners of the tax within their several counties aided by their assessors shall forthwith institute proper proceedings of escheat & forfeiture for all such property real & personal in which they shall be advised and assisted by the several attornies for the commonwealth.

Where any office in the cases before mentioned shall be found for the commonwealth & returned to the General court, it shall remain there but one month for the claim of any pretending right to the estate, and if within that time no such claim be made, or being made if it be found & discussed for the commonwealth, the title of the owner to such estate real or personal shall be forever barred, but may be afterwards asserted as to the money proceeding from the sale thereof with equal force & advantage as might have been to the thing itself; and such further proceedings shall be had for making sale, of the lands so found, in parcels not greater than 400 acres (to be described by the commissioners hereafter mentioned and measured & marked by metes & bounds by a surveyor where they shall think necessary) and of the other property, as in the cases of escheat & forfeiture; save only that the Governor with advice of council, for every such sale shall appoint two commissioners to superintend & control the proceedings of the sd escheators, which commissioners shall be sworn to use their best endeavors to have the estate to which their trust extends sold to the best advantage. The sd sales shall be for ready money to be paid to the Escheator, who shall retain thereof five per centum for his trouble. His certificate of such paiment in the case of lands, and of the person purchasing, to the register of the land office, shall entitle the

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purchaser to a grant of the sd lands, if the sd Escheator shall fail to pay the sd money into the hands of the Treasurer within a reasonable time after any such sale (which reasonable time shall be accounted one day for every 20 miles such sale was distant from the public treasury and days of grace in addition thereto) he shall pay interest thereon from the time of the sd sale at the rate of 20 per centum per annum; & moreover it shall be lawful for the Auditors on the last day but one of any General court, or at any court to be held for the county wherein such property was sold, after the expiration of the time allowed for paiment to obtain judgment on motion against such Escheator his heirs executors & administrators for the principal sum and such interest, together with costs. And for the information of the Auditors, the commissioners of the sale shall immediately on such sale certify to whom & for how much such sale was made & transmit such certificate by some safe & early conveyance to the Auditors; which certificate shall be legal evidence against such Escheator. The Auditors shall allow the commissioners so appointed the expences of the surveys by them directed & made, & other their reasonable expenses; and such compensation for their trouble as to them shall seem proper. Where the commissioners shall be of opinion that it will be more to the interest of the owner or public that possession of such property real or personal should be retained for finishing & removing a crop or other purpose, it shall be lawful for them to stay the possession as it is now until the day of next, giving notice of such their intentions at the time of sale.

And for preventing doubt who shall be deemed British subjects within the meaning of this act, it is hereby declared & enacted that (1) all persons, subjects of his Britannic majesty, who on the day of April in the year 1775, when hostilities were commenced at Lexington between the United states of America & the other parts of the British empire, were resident or following their vocations in any part of the world other than the sd United states, and have not since either entered into public employment of the sd states, or joined the same and by overt act adhered to them; and (2.) all such subjects inhabitants of any of the sd United States, as were out of the sd states on the same day, &

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have since by overt act adhered to the enemies of the sd states; and (3) all inhabitants of the sd states who after the sd day and before the commencement of the act of the General assembly intituled 'an act declaring what shall be treason' departed from the sd states & joined the subjects of his Britannic majesty of their own free will, or who by any county court within this commonwealth were declared to be British subjects within the meaning & operation of the resolution of the General assembly of

and the Governor's proclamation founded thereon; shall be deemed British subjects within the intention of this act.

But this act shall not extend to debts due to British subjects & paiable into the loan office according to the act of General assembly for sequestering British property; nor take effect on the property of such British subjects as are infants, femes covertes, or insane mind, who within one year after their disability removed and hostilities suspended between his Britannic majesty and the United states shall become citizens of any of the sd states; nor on any lots of land within the town of Richmond as the limits of sd town now are, or shall be at the time of the inquest found, which by the directors of the public buildings shall be included within the squares appropriated for such buildings further than that an office shall be found as to such lots of land and the estimated value thereof be disposed of hereafter as the price would have been by this act had they been exposed to public sale; nor on any other such lots within the same town as shall by the sd directors be declared proper for the public use until buildings be erected on the squares before mentioned, & so long as they shall be applied to such public use.

SPEECH TO GENERAL ASSEMBLY.[1]

Wednesday, June 2, 1779.

GENTLEMEN,—The honor which the General assembly have been pleased to confer on me, by calling me to the high office of Governor of this Commonwealth, demands my most grateful acknowl-

[1] From the *Journal of the House of Delegates*. Jefferson had just been elected Governor of Virginia.

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edgments, which I desire, through you, gentlemen, to tender to them with the utmost respect. In a virtuous and free State no rewards can be so pleasing to sensible minds, as those which include the approbation of our fellow-citizens. My great pain is, lest my poor endeavors should fall short of the kind expectations of my country. So far as impartiality, assiduous attention, and sincere affection to the great American cause, shall enable me to fulfil the duties of my appointment, so far as I may with confidence undertake; for all beyond, I must rely on the wise counsels of the General assembly, and of those whom they have appointed for my aid in those duties.

To you, gentlemen, I return my particular thanks for the polite terms in which you have been pleased to notify the will of the General assembly.

TO JOHN PAGE.[1]

J. MSS.

[June, 1779.]

DEAR PAGE,—I received your letter[2] by Mr. Jamieson. It had given me much pain, that the zeal of our respective friends should ever have placed you and me in the situation of competitors. I was comforted, however, with the reflection, that it was their competition, not ours, and that the difference of the numbers which decided between us, was too insignificant to give you a pain, or me a pleasure, had our dispositions towards each other been such as to admit those sensations. I know you too well to need an apology for anything you do, and hope you will forever be assured of this;

[1] This letter was dated in the Randolph and Washington editions as Jan. 22, 1779.

[2] Dated June 2d, and congratulating him on his election as Governor of Virginia. The first vote was: Jefferson, 55; Nelson, 32; and Page, 38. The second was Jefferson, 67; Page, 61. *Cf. Journal of the House of Delegates* for 1779, p. 29.

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and as to the constructions of the world, they would only have added one to the many sins for which they are to go to the devil. As this is the first, I hope it will be the last, instance of ceremony between us. A desire to see my family, which is in Charles City, carries me thither to-morrow, and I shall not return till Monday. Mrs. Jefferson I believe will not come shortly to town. When she does however she has too much value for Mrs. Page not to consider her acquaintance as a principal among those circumstances which are to reconcile her to her situation. A knowledge of her sentiments on this subject renders it safe in undertaking that she shall do her part in cultivating a friendly intercourse. Be pleased to present my compliments to Mrs. Page, and add this to the assurances I have ever given you, that I am, dear Page, your affectionate friend.

TO WILLIAM FLEMING.[1]

WILLIAMSBURGH, June 8, 1779.

DEAR FLEMING,—I received your letter and have now to thank you for it. Some resolutions of Congress came to hand yesterday desiring an authentic state to be sent them of the cruelties said to have been committed by the enemy during their late invasion. The council had already taken measures to obtain such a state. Tho' so near the scene where these barbarities are said to have been committed I am not able yet to decide within myself whether they

[1] From the *Southern Literary Messenger*, III, 306.

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were such or not. The testimony on both sides is such as if heard separately could not admit a moment's suspension of our faith.

We have lately been extremely disturbed to find a pretty general opinion prevailing that peace and the independence of the thirteen states are now within our power, and that Congress have hesitations on the subject, and delay entering on the consideration. It has even been said that their conduct on this head has been so dissatisfactory to the French minister that he thinks of returning to his own country, ostensibly for better health, but in truth through disgust. Such an event would be deplored here as the most dreadful calamity. It is in contemplation of some gentlemen who conferred on the subject to propose the re-establishment of our committees of correspondence; others thought this too slow for the emergency and that plenipotentiary deputies should be sent to satisfy the mind of the French minister, and to set on foot proper measures for procuring the genuine sense of the several states. The whole however subsided on a supposition that the information might not be true, and that our delegates in Congress would think no obligations of secrecy under which they may have been laid sufficient to restrain them from informing their constituents of any proceedings which may involve the fate of their freedom and independence. It would surely be better to carry on a ten years' war some time hence than to continue the present an unnecessary moment.

Our land office I think will be opened; the sale of British property take place, and our tax bill put on a

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better footing. These measures I hope will put our finances into a better way and enable us to co-operate with our sister states in reducing the enormous sums of money in circulation. Every other remedy is nonsensical quackery. The house of delegates have passed a bill for removing the seat of government to Richmond. It hesitates with the Senate. We have established a board of war and a board of trade. I hear from your quarter that Genl. Sullivan is marching with a large army against the Indians. If he succeeds it will be the first instance of a great army doing anything against Indians and his laurels will be greater. We have ever found that chosen corps of men fit for the service of the woods, going against them with rapidity, and by surprize, have been most successful. I believe that our Colo. Clarke if we could properly reinforce him, would be more likely to succeed against those within his reach than Genl. Macintosh's regular method of proceeding. I shall hope to hear from you often. I put no name to this letter, because letters have miscarried, and if it goes safely you know the hand.

TO THEODORICK BLAND, JR.[1]

WILLIAMSBURG, June 8th, 1779.

SIR,—Your letter to Governor Henry, of the 1st instant, came to hand yesterday, and I immediately laid it before the council. It gave them pain to hesitate on any request from General Phillips, whose

[1] From *The Bland Papers*, I, 133.

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polite conduct has disposed them to every indulgence consistent with the duties of their appointment. The indiscriminate murder of men, women and children, with the horrid circumstances of barbarity practised by the Indian savages, was the particular task of Governor Hamilton's employment; and if anything could have aggravated the acceptance of such an office, and have made him personally answerable in a high degree, it was that eager spirit with which he is said to have executed it, and which, if the representations before the council are to be credited, seems to have shown that his own feelings and disposition were in unison with his employment. The truth of these representations will be the subject of their inquiry shortly, and the treatment of Governor Hamilton will be mild or otherwise, as his conduct shall appear to merit, upon a more intimate examination. We trust it must furnish a contemplation highly pleasing to the generous soldier, to see honorable bravery respected, even by those against whom it happens to be enlisted, and discriminated from the cruel and cowardly warfare of the savage, whose object in war is to extinguish human nature.

By a letter dated May 27th, you were desired to discharge the militia under your command as soon as you judged it proper; lest that letter should have miscarried, I now enclose you a copy. Colonel Finnie informs me he has written to you to apply for clothes at Winchester, for the use of your regiment of guards, and of the horse now with you. He yesterday showed me a letter from the continental board of war, giving

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the same directions; he says also that he had lately written to you on the subject of the articles desired for your particular use, and that he is not enabled to procure them more fully.

As to putting the horse now with you on the same pay-roll with the regiment of guards, the council are of opinion that either your own powers are competent to it, or at least that it may be done in concert with the continental paymaster. The regiment of guards is recognized as continental; the duty they are jointly engaged in is continental; they therefore wish that this matter should go into the continental line altogether, rather than be controlled by their interference, where it is not absolutely necessary. I am your most obedient servant, &c.

TO RICHARD HENRY LEE.[1]

WILLIAMSBURG, June 17, 1779.

DEAR SIR,—I received your letter, and kind congratulations, for which I return you my thanks. In a virtuous government, and more especially in times like these, public offices are, what they should be, burthens to those appointed to them, which it would be wrong to decline, though foreseen to bring with them intense labour, and great private loss. I am, also, still to thank you for a former favour, enclosing a song and receipt. We have little new here. Colonel Clarke's expedition against St Vincents you know of; his prisoners are arrived at Chesterfield, and three of

[1] From Lee's *Life of R. H. Lee*, II, 189.

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them brought to this place to be severely dealt with; the enclosed paper will explain that matter. We have 300 men, under Colonel Bowman, in the Shawnee county, of whom we hope to receive good accounts: the destruction of the villages of the Cherokees, at Chuch-amogga, and taking their goods, &c., has brought them to sue for peace; but the happiest stroke was the burning twenty-thousand bushels of corn, collected there for the use of the expeditions, which were to have been adopted at the great council. Governor Hamilton had called at the mouth of the Tanissee, as mentioned in the within paper. It is a cruel thought, that, when we feel ourselves standing on the firmest ground, in every respect, the cursed art of our secret enemies, combining with other causes, should effect, by depreciating our money, what the open arms of a powerful enemy could not. What is to be done? Taxation is become of no account, for it is foreseen, that, notwithstanding its increased amount, there will still be a greater deficiency than ever. I own I see no assured hope, but in peace, or a plentiful loan of hard money.

I shall be obliged by your letters, when convenient to you to write. I never was a punctual correspondent to any person, as I must own to my shame; perhaps my present office will put it more out of my power; however as it may sometimes furnish me with matter which may induce me to hope my letters may be worth sending, I may venture to say, you shall hear from me whenever I can get over the two-fold difficulty of many letters of absolute necessity, to write, and an innate aversion to that kind of business.

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TO THEODORICK BLAND, JR.[1]

WILLIAMSBURGH, June 18th, 1779.

SIR,—Yours of the 14th instant came to hand this day. * * * With respect to Col. Finnie, as a continental officer, [we decline med] dling with his conduct; being yourself in the continental service, [we] take it for granted, that if he fails in his duty you will [put] him under a proper train of enquiry? His assurances to us are fair; one thing only I am to inform you, that however true it may be that he is without money, it is no just excuse for failing to do anything for the public service, because that was never permitted by the executive here, to be on sufferance for want of money. He never applied in vain, and we still are, as we ever have been, ready to lend him (as a continental officer) any monies, which the due discharge of his office may call [for] * * * and politeness at the [least] hardly permits them to suppose the duties of the [post can be as] well discharged by any other, as by yourself. But your health for that very reason is the more to be taken care of. You will please to permit Capt. Bertling and Lieutenant Campbell to pass by land to the lower ferry of the Chickahominy, [where the Flag] lies, and finally settle the business, on which he came, according [to the rules] usual in their service. I enclose you the reasons, which have induced the council to [act] with such rigor with Governor Hamilton and the others there. It is impossible for any generous man to disapprove his sentence. I am, sir, with much [respect,] your most obedient and most humble servant, &c.

[1] From *The Bland Papers*, I, 138.

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REPORT OF THE REVISORS

1779.

In 1776, as Jefferson states in his *Autobiography*, (I, 57), he introduced a bill in the General Assembly, creating a committee to revise and codify the laws of the state. The committee, consisting of Jefferson, Pendleton, Wythe, George Mason, and Thomas L. Lee, met at Fredericksburg, Jan. 13, 1777, and outlined a plan (partly printed in Rowland's *Life of Mason*, I, 276) settling certain details, and apportioning the work among the revisors. Both Mason and Lee resigned before the code was fairly commenced; but the remaining three worked on the revisal for over two years, finally meeting again at Williamsburg in Feb., 1779, where, Jefferson states (*Autobiography*), they "examined critically our several parts, sentence by sentence, scrutinizing and amending untii we had agreed on the whole. We then returned home, [and] had fair copies made of our several parts." A letter of Pendleton, however, gives a different version of this (*Pendleton to Jefferson*, May 11, 1779):

"I immediately wrote to our friend W. to be informed if anything had happen'd, or passed between you & him, which made it necessary for me to attend further to the work of Revisal, contrary to what had been agreed to between Us, that you should settle our diversity of Opinions upon the Bills he had prepared, as well as mine, which he chose to consider by himself, & Point out for your Examination any alterations he judged proper, & then they were to be fairly transcribed as well as yours, which we had before gone through & reported. I let him know that I was ready to attend him at any time, if such Occurrences had made it necessary; he answered that no Alteration was made in that plan & I was satisfied."

Finally they reported the results of their work to the Assembly in the following letter:

WILLIAMSBURG, June 18, 1779.

SIR,—The committee appointed in pursuance of an act of General Assembly, passed in 1776 intituled "An act for the revision of the laws," have according to the requisitions of the said act, gone through that work, and prepared 126 bills, the titles of which are stated in the enclosed catalogue. Some of these bills have been presented to the House of Delegates in the course of the present session, two or three of them delivered to members of that House at their request to be

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presented, the rest are in the two bundles which accompany this; these we take the liberty through you of presenting to the General Assembly.

In the course of this work we were unfortunately deprived of the assistance and abilities of our associates appointed by the General Assembly, of the one by death, of the other by resignation. As the plan of the work had been settled, and agreeable to that plan it was in a considerable degree carried into execution before that loss, we did not exercise the powers given us by the act, of filling up the places by new appointment, being desirous that the plan agreed on by members who were specially appointed by the Assembly, might not be liable to alteration from others who might not equally possess their confidence, it has therefore been executed by the three remaining members, one of whom being prevented from putting his signature hereto, by the great distance of his residence from this city, has by letter authorized us to declare his concurrence in the report.

We have the honor to be with the utmost respect, sir, your most obedient and most humble servants,

T. JEFFERSON,
G. WYTHE.

For some reason the Assembly neglected the *Report of the Revisors* for some years; but finally, in 1784, Madison succeeded in getting 500 copies of it printed, and at the sessions of 1785 and 1786, fifty-six out of the one hundred and twenty-six bills, which constituted the collection, were, after amendment, made laws (see *Hening*, XII).

The part assigned to Jefferson in this work was "to undertake the first part ('the first period in the division of the statutes to end with 25th, H. 8th') with the law of descents."

After consideration, the editor has concluded to print only the most notable of the bills Jefferson drafted for this Revisal, as many are of a merely formal and routine character, and he himself wrote of the collection (to *Hogendorp*, Oct. 13, 1785):

"If you had formed any considerable expectations from our revised code of laws you will be much disappointed. It contains not more than three or four laws which could strike the attention of a foreigner. Had it been a digest of all our laws, it would not have been comprehensible or instructive but to a native. But it is still less so, as it digests only the British statutes & our own acts of assembly, which are but a supplementary part of our law. The great basis of it is anterior to the date of the Magna charta, which is the oldest statute extant. The only merit of this work is that it may remove from our book shelves about twenty folio volumes of our statutes, retaining all the parts of them which either their own merit or the established system of our laws required."

For further information concerning this *Report of the Revisors*, see Jefferson's *Autobiography*, I, 57–69; *Notes on Virginia*, Query XIV, pp. 250–275; *Letters to Madison*, Feb. 20, Apr. 25, 1784; *Hening*, XII, 8, 409; Rowland's *Life of Mason*, I, 276; and *Letters of James Madison*, I, 199, 203, 207, 212, 260, 268, 270, 273, 366, III, 532, 580, 583, 612.

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REPORT

OF THE

COMMITTEE of REVISORS

APPOINTED BY THE

GENERAL ASSEMBLY

of *VIRGINIA*

In MDCCLXXVI.

PUBLISHED BY *ORDER*
OF THE
GENERAL ASSEMBLY,
AND
PRINTED BY DIXON & HOLT,
In the CITY of RICHMOND.
NOVEMBER MDCCLXXXIV.

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A BILL FOR WITHHOLDING BRITISH PROPERTY.

(CHAPTER XXXVI.[1])

SECTION I. For securing to the citizens of this commonwealth an indemnification out of the property of British subjects here, in case the sovereign of the latter should confiscate the property of the former in his dominions, as well as to prevent that accession of strength which the enemy might derive by withdrawing their property from hence: Be it enacted by the General Assembly, that the lands, slaves, flocks, implements of husbandry, and other estate except what is otherwise hereinafter provided for, within this commonwealth, of British subjects, shall be sequestered, and remain in possession of the commissioners heretofore for that purpose appointed, or be put into the possession of such as shall be from time to time, appointed, by the Governor, with advice of the Council of State. The said commissioners shall have power, and are required, to place, and keep the said estates under any management and direction of proper agents, stewards, or overseers, and dispose of the produce thereof, and to demand, receive, and, by actions in the names of the proprietors, recover monies and other things which are and shall become due to them, and, after defraying the expenses incurred in the management of the said estates, and applying so much of the profits thereof, as the

[1] This bill varies slightly from that actually enacted (*Hening*, IX, 377) which was also drawn by Jefferson. (*Journal of the House of Delegates*, 1777, pp. 113, 119, 125–6; W. C. Ford's *Letters of Joseph Jones*, 138.) Even as early as 1779 the Assembly acknowledged its injustice, and it proved eventually a boomerang, the Courts holding that payments under it did not liquidate the debts, and compelling a true payment to the British debtors. Among those to suffer the most was Jefferson, who had paid into the loan-office moneys due by him to John Randolph, Kippen & Co., and William Jones.

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Governor, with the advice aforesaid, shall judge reasonable and direct to be allowed, towards maintaining the wives and children, if any there be residing here, of the proprietors, and pay the balances of such profits and receipts into the loan-office of this commonwealth, taking certificates in the proprietors names, and delivering the certificates, and annually rendering accounts of their respective transactions to the Governor, who, with the advice aforesaid, may cause the said accounts to be adjusted, and, in the names of the proprietors, recover any arrears from the commissioners, and pay the same into the said loan-office.

SECT. II. A citizen of the commonwealth, who is debtor to a British subject, may lodge the money due, or any part thereof, in the said loan-office, accounting sixteen pence of the lawful money of the commonwealth, or two-thirds of a dollar in bills of credit there current, equal to twelve pence of any such debt payable in the debtor's name, signed by the commissioner of the office, and delivering the same to the Governor, whose receipt shall discharge the debt, wholly or partly as the case may be. A state of all which matters shall be laid before the General Assembly, whenever they shall require it. If a citizen of the commonwealth, being a coparcener, jointenant, or tenant in common, with a British subject, bring a writ de partitione facienda in the General Court, or a suit for a partition by bill in equity, if that be the proper remedy in the High Court of Chancery, service of the process, against the tenant or defendant, upon the commissioner, for his estate, personally shall be deemed equivalent to service upon the party himself, and be as effectual to all purposes, save that if the partition thereupon made be without title, or unequal, which the commissioner shall endeavor to prevent, entering into the defence, or answering, and contesting the matter, for the tenant or defendant, and at his costs, the tenant or defendant shall not be concluded by the partition, unless the purparty assigned or allotted to the demandant or plaintiff shall be afterwards sold to a purchaser for valuable consideration, bonafide paid or agreed to be paid, in which case the tenant or defendant shall have redress against the demandant or plaintiff, or his representatives, when the General Assembly shall hereafter allow suit to be brought for that purpose.

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SECT. III. Suits between British subjects only, demandants or plaintiffs and citizens of the commonwealth, tenants or defendants, which have not been, or shall not be, discontinued by acts of the parties, or abated by death, shall stand continued in the same condition as they were in on the twelfth day of April, in the year of our Lord one thousand seven hundred and seventy four; and in suits between subjects and citizens, joint demandants or plaintiffs, and citizens, tenants or defendants, execution, as to the parts recovered on behalf of the subjects, shall be suspended, until further provision be made in the cases of both those classes: And in suits between such citizens only, or citizens and subjects jointly, tenants or defendants, the benefit of new trials or re-hearings, with future Legislative permission and direction, if it be then judged reasonable, shall be saved to the latter.

A BILL CONCERNING SLAVES.

(CHAPTER LI.[1])

SECTION. I. Be it enacted by the General Assembly, that no person shall, henceforth, be slaves within this commonwealth, except such as were so on the first day of this present session of Assembly, and the descendants of the females of them.

SECT. II. Negroes and mulattoes which shall hereafter be brought into this commonwealth and kept therein one whole year, together, or so long at different times as shall amount to one year, shall be free. But if they shall not depart the commonwealth within one year thereafter they shall be out of the protection of the laws.

SECT. III. Those which shall come into this commonwealth of their own accord shall be out of the protection of the laws; save only such as being seafaring persons and navigating vessels hither, shall not leave the same while here more than twenty four hours together.

[1] For the intention of the revisors in regard to this bill, see *Notes on Virginia*, Query XIV, p. 250; and Jefferson's *Autobiography*, I, 67.

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SECT. IV. It shall not be lawful for any person to emancipate a slave but by deed executed, proved and recorded as is required by law in the case of a conveyance of goods and chattels, on consideration not deemed valuable in law, or by last will and testament, and with the free consent of such slave, expressed in presence of the court of the county wherein he resides. And if such slave, so emancipated, shall not within one year thereafter, depart the commonwealth, he shall be out of the protection of the laws. All conditions, restrictions and limitations annexed to any act of emancipation shall be void from the time such emancipation is to take place.

SECT. V. If any white woman shall have a child by a negro or mulatto, she and her child shall depart the commonwealth within one year thereafter. If they shall fail so to do, the woman shall be out of the protection of the laws, and the child shall be bound out by the Aldermen of the county, in like manner as poor orphans are by law directed to be, and within one year after its term of service expired shall depart the commonwealth, or on failure so to do, shall be out of the protection of the laws.

SECT. VI. Where any of the persons before described shall be disabled from departing the commonwealth by grievous sickness, the protection of the law shall be continued to him until such disability be removed: And if the county shall in the meantime, incur any expense in taking care of him, as of other county poor, the Aldermen shall be intitled to recover the same from his master, if he had one, his heirs, executors and administrators.

SECT. VII. No negro or mulatto shall be a witness except in pleas of the commonwealth against negroes or mulattoes, or in civil pleas wherein negroes or mulattoes alone shall be parties.

SECT. VIII. No slave shall go from the tenements of his master, or other person with whom he lives, without a pass, or some letter or token whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a Justice of the Peace, to be by his order punished with stripes, or not, in his discretion.

SECT. IX. No slaves shall keep any arms whatever, nor pass, unless with written orders from his master or employer, or in his

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company, with arms from one place to another. Arms in possession of a slave contrary to this prohibition shall be forfeited to him who will seize them.

SECT. X. Riots, routs, unlawful assemblies, trespasses and seditious speeches by a negro or mulatto shall be punished with stripes at the discretion of a Justice of the Peace; and he who will may apprehend and carry him before such Justice.

A BILL FOR PROPORTIONING CRIMES AND PUNISHMENTS.

(CHAPTER LXIV.[1])

SECTION I. Whereas it frequently happens that wicked and dissolute men, resigning themselves to the dominion of inordinate passions, commit violations on the lives, liberties, and property

[1] The text of this act is printed from that in the *Report of the Revisors*, but Jefferson's notes are printed from a MS. copy in his handwriting, now in the Department of State, the text of which differs however materially from the bill as here printed, and which will be found in Washington's edition, I, 147. Of this bill, he wrote to Wythe:

"MONTICELLO, November 1st, 1778.

"DEAR SIR,—I have got through the bill for 'proportioning crimes and punishments in cases heretofore capital,' and now enclose it to you with a request that you will be so good, as scrupulously to examine and correct it, that it may be presented to our committee with as few defects as possible. In its style, I have aimed at accuracy, brevity, and simplicity, preserving, however, the very words of the established law, wherever their meaning had been sanctioned by judicial decisions, or rendered technical by usage. The same matter, if couched in the modern statutory language, with all its tautologies, redundancies, and circumlocutions, would have spread itself over many pages, and been unintelligible to those whom it most concerns. Indeed, I wished to exhibit a sample of reformation in the barbarous style into which modern statutes have degenerated from their ancient simplicity. And I must pray you to be as watchful over what I have not said, as what is said; for the omissions of this bill have all their positive meaning. I have thought it better to drop, in silence, the laws we mean to discontinue, and let them be swept away by the general negative words of this, than to detail them in clauses of express repeal. By the side of the text I have written the notes I made, as I went along, for the benefit of my own memory. They may serve to draw your attention to questions, to which the expressions or the omissions of the text may give rise. The extracts from the Anglo-Saxon laws, the sources of the Common law, I wrote in their original, for my

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of others, and the secure enjoyment of these having principally induced men to enter into society, government would be defective in its principal purpose, were it not to restrain such criminal acts by inflicting due punishments on those who perpetrate them; but it appears at the same time equally deducible from the purposes of society, that a member thereof, committing an inferior injury, does not wholly forfeit the protection of his fellow citizens, but after suffering a punishment in proportion to his offence, is entitled to their protection from all greater pain, so that it becomes a duty in the Legislature to arrange in a proper scale the crimes which it may be necessary for them to repress, and to adjust thereto a corresponding gradation of punishments. And whereas the reformation of offenders, though an object worthy the attention of the laws, is not effected at all by capital punishments which exterminate instead of reforming, and should be the last melancholy resource against those whose existence is become inconsistent with the safety of their fellow citizens; which also weaken the State by cutting off so many, who, if reformed, might be restored sound members to society, who, even under a course of correction, might be rendered useful in various labours for the public, and would be, living, and long-continued spectacles to deter others from committing the like offences. And forasmuch as the experience of all ages and countries hath shewn, that cruel and sanguinary laws defeat their own purpose, by engaging

own satisfaction; but I have added Latin, or liberal English translations. From the time of Canute to that of the Magna Charta, you know, the text of our statutes is preserved to us in Latin only, and some old French.

"I have strictly observed the scale of punishments settled by the Committee, without being entirely satisfied with it. The *Lex Talionis*, although a restitution of the Common law, to the simplicity of which we have generally found it so advantageous to return, will be revolting to the humanized feelings of modern times. An eye for an eye, and a hand for a hand, will exhibit spectacles in execution whose moral effect would be questionable; and even the *membrum pro membro* of Bracton, or the punishment of the offending member, although long authorized by our law, for the same offence in a slave has, you know, been not long since repealed in conformity with public sentiment. This needs reconsideration."

The Saxon character in which a part of his notes are written is here given in Roman. *Cf.* Jefferson's *Autobiography*, I, 62; and *Notes on Virginia*, Query XIV, p. 265.

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the benevolence of mankind to withhold prosecutions, to smother testimony, or to listen to it with bias; and by producing in many instances a total dispensation and impunity under the names of pardon and privilege of clergy: when, if the punishment were only proportioned to the injury, men would feel it their inclination, as well as their duty, to see the laws observed; and the power of dispensation, so dangerous and mischievous, which produces crimes by holding up a hope of impunity, might totally be abolished, so that men while contemplating to perpetrate a crime would see their punishment ensuing as necessarily as effects follow their causes[1]; for rendering crimes and punishments, therefore, more proportionate to each other,

SECT. II. Be it enacted by the General Assembly, that no crime shall be henceforth punished by the deprivation of life or limb,[2] except those herein after ordained to be so punished.

SECT. III. [3]If a man do levy war[4] against the Commonwealth [*in the same*], or be adherent to the enemies of the Commonwealth [*within the same*],[5] giving to them aid or comfort in the Common-

[1] From the word "observed" in this sentence, to this point, is omitted in the *MS.* copy before mentioned.

[2] This takes away the punishment of cutting off the hand of a person striking another, or drawing his sword in one of the superior courts of justice. Stamf. P. C. 38. 33. H. 8. c. 12. In an earlier stage of the Common law, it was death. Gif hwa gefeohte on Cyninges huse sy he scyldig ealles his yrfes, and sy on Cyninges dome hwæther he lif age de nage; si quis in regis domo pugnet, perdat omnem suam hæreditatem, et in regis sit arbitrio, possideat vitam an non possideat. Ll. Inae. 6. Gif hwa on Cyninges healle gefeohte, oththe his wæpne gebrede, and hine mon gefo, sy thæt on Cyninges dome swa death, swa lif, swa he him forgyfan wille: si quis in aula regia pugnet, vel arma sua extrahat et capiatur, sit in regis arbitrio tam mors quam vita, sicut ei condonare voluerit. Ll. Alfr. 7, Gif hwa on Cyninges hirede gefeohte tholige thæt lifes, buton se Cyning him gearian wille: si quis in regia dimicat, perdat vitam, nisi rex hoc illi condonare velit. Ll. Cnuti. 56. 4. Bl. 125.—*T. J.*

[3] 25. E. 3. st. 5. c. 2. 7. W. 3. c. 3. § 2,—*T. J.*

[4] Though the crime of an accomplice in treason is not here described, yet, Lord Coke says, the partaking and maintaining a treason herein described, makes him a principal in that treason: it being a rule that in treason all are principals. 3 Inst. 138. 2 Inst. 590. 1 H. 6. 5.—*T. J.*

[5] The words in brackets are inserted by Jefferson in the *MS.* copy already alluded to. The following explanation is added:

"These words in the English statute narrow its operation. A man adhering

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wealth, or elsewhere, and thereof be convicted, of open deed, by the evidence of two sufficient and lawful witnesses, or his own voluntary confession, the said cases, and no[1] others, shall be adjudged treasons which extend to the commonwealth, and the person so convicted shall suffer death, by hanging,[2] and shall forfeit his lands and goods to the commonwealth.

SECT. IV. If any person commit petty treason, or a husband murder his wife, a parent[3] his child, or a child his parent, he

to the enemies of the Commonwealth, in a foreign country, would certainly not be guilty of treason with us, if these words be retained. The convictions of treason of that kind in England have been under that branch of the statute which makes the compassing the king's death treason. Foster 196, 197. But as we omit that branch, we must by other means reach this flagrant case." —*T. J.*

[1] The stat. 25. E. 3. directs all other cases of treasons to await the opinion of Parliament. This has the effect of negative words, excluding all other treasons. As we drop that part of the statute, we must, by negative words, prevent an inundation of common law treasons. I strike out the word "it," therefore, and insert "the said cases, and no others." Quære, how far those negative words may effect the case of accomplices above mentioned? Though if their case was within the statute, so as that it needed not await the opinion of Parliament, it should seem to be also within our act, so as not be ousted by the negative words.—*T. J.*

[2] This implies "by the neck." See 2 Hawk. 544 notes n. o.—*T. J.*

[3] By the stat. 21. Jac. 1. c. 27. and Act Ass. 1170. c. 12. concealment by the mother of the death of a bastard child is made murder. In justification of this, it is said, that shame is a feeling which operates so strongly on the mind, as frequently to induce the mother of such a child to murder it, in order to conceal her disgrace. The act of concealment, therefore, proves she was influenced by shame, and that influence produces a presumption that she murdered the child. The effect of this law then is, to make what, in its nature, is only presumptive evidence of a murder conclusive of that fact. To this I answer, 1. So many children die before or soon after birth, that to presume all those murdered who are found dead, is a presumption which will lead us oftener wrong than right, and consequently would shed more blood than it would save. 2. If the child were born dead, the mother would naturally choose rather to conceal it, in hopes of still keeping a good character in the neighborhood. So that the act of concealment is far from proving the guilt of murder on the mother. 3. If shame be a powerful affection of the mind, is not parental love also? Is it not the strongest affection known? Is it not greater than even that of self-preservation? While we draw presumptions from shame, one affection of the mind against the life of the prisoner, should we not give some weight to presump-

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shall suffer death, by hanging, and his body be delivered to Anatomists to be dissected.

SECT. V. Whosoever committeth murder by poisoning, shall suffer death by poison.

SECT. VI. Whosoever committeth murder by way of duel, shall suffer death by hanging; and if he were the challenger, his body, after death, shall be gibbetted.[1] He who removeth it from the gibbet shall be guilty of a misdemeanor, and the officer shall see that it be replaced.

SECT. VII. Whosoever shall commit murder in any other way shall suffer death by hanging.

SECT. VIII. And in all cases of Petty treason and murder, one half of the lands and goods of the offender shall be forfeited to the next of kin to the person killed, and the other half descend and go to his own representatives. Save only, where one shall slay the challenger in a duel,[2] in which case, no part of his lands or goods shall be forfeited to the kindred of the party slain, but instead thereof, a moiety shall go to the commonwealth.

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tions from parental love, an affection at least as strong, in favor of life? If concealment of the fact is a presumptive evidence of murder, so strong as to overbalance all other evidence that may possibly be produced to take away the presumption, why not trust the force of this incontestable presumption to the jury, who are, in a regular course, to hear presumptive, as well as positive testimony? If the presumption arising from the act of concealment, may be destroyed by proof positive or circumstantial to the contrary, why should the legislature preclude that contrary proof? Objection. The crime is difficult to prove, being usually committed in secret. Answer. But circumstantial proof will do; for example, marks of violence, the behavior, countenance, &c. of the prisoner, &c. And if conclusive proof be difficult to be obtained, shall we therefore fasten irremovably upon equivocal proof? Can we change the nature of what is contestable, and make it incontestable? Can we make that conclusive which God and nature have made inconclusive? Solon made no law against parricide, supposing it impossible that any one could be guilty of it; and the Persians, from the same opinion, adjudged all who killed their reputed parents to be bastards; and although parental be yet stronger than filial affection, we admit saticide proved on the most equivocal testimony, whilst they rejected all proof of an act certainly not more repugnant to nature, as of a thing impossible, unprovable. See Beccaria, § 31.—*T. J.*

[1] 25. G. 2. c. 37.—*T. J.*

[2] Quære, if the estates of both parties in a duel, should not be forfeited? The deceased is equally guilty with a suicide.—*T. J.*

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SECT. IX. The same evidence[1] shall suffice, and order and course[2] of trial be observed in cases of Petty treason as in those of other[3] murders.

SECT. X. Whosoever shall be guilty of manslaughter,[4] shall, for the first offence, be condemned to hard[5] labour for seven years in the public works; shall forfeit one half of his lands and goods to the next of kin to the person slain; the other half to be sequestered during such term, in the hands, and to the use, of the commonwealth, allowing a reasonable part of the profits for the support of his family. The second offence shall be deemed murder.

SECT. XI. And where persons meaning to commit a trespass[6]

[1] Quære, if these words may not be omitted? By the Common law, one witness in treason was sufficient. Foster 233. Plowd. 8. a. Mirror c. 3. § 34. Waterhouse on Fortesc. de laud. 252. Carth. 144. per Holt. But Lord Coke, contra 3 inst. 26. The stat. 1. E. 6. c. 12. & 5. E. 6. c. 11. first required two witnesses in treason. The clause against high treason supra, does the same as to high treason; but it seems if 1st and 5th E. 6. are dropped, Petty treason will be tried and proved, as at Common law, by one witness. But quære, Lord Coke being contra, whose opinion it is ever dangerous to neglect.—*T. J.*

[2] These words are intended to take away the peremptory challenge of thirty-five jurors. The same words being used 1. 2. Ph. & M. c. 10. are deemed to have restored the peremptory challenge in high treason; and consequently are sufficient to take it away. Foster 237.—*T. J.*

[3] Petty treason is considered in law only as an aggravated murder. Foster 107. 323. A pardon of all murders, pardons Petty treason. 1 Hale P. C. 378. see 2 H. P. C. 340. 342. It is also included in the word "felony," so that a pardon of all felonies, pardons Petty treason.—*T. J.*

[4] Manslaughter is punishable at law, by burning in the hands, and forfeiture of chattels.—*T. J.*

[5] It is best, in this act, to lay down principles only, in order that it may not forever be undergoing change; and, to carry into effect the minuter parts of it, frame a bill "for the employment and government of felons, or malefactors, condemned to labor for the Commonwealth," which may serve as an Appendix to this, and in which all the particulars requisite may be directed; and as experience will, from time to time, be pointing out amendments, these may be made without touching this fundamental act. See More's Utopia p. 50. for some good hints. Fugitives might, in such a bill, be obliged to work two days for every one they absent themselves.—*T. J.*

[6] The shooting at a wild fowl, and killing a man, is homicide by misadventure. Shooting at a pullet, without any design to take it away, is manslaughter; and with a design to take it away, is murder. 6 Sta. tr. 222. To shoot at the

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only, or larceny, or other unlawful deed, and doing an act from which involuntary homicide hath ensued, have heretofore been adjudged guilty of manslaughter or of murder, by transferring such their unlawful intention to an act, much more penal than they could have in probable contemplation; no such case shall hereafter be deemed manslaughter unless manslaughter was intended, nor murder, unless murder was intended.

SECT. XII. In other cases of homicide the law will not add to the miseries of the party, by punishments or forfeitures.[1]

poultry of another, and thereby set fire to his house, is arson, in the opinion of some. Dalt. c. 116. 1. Hale's P. C. 569. c. contra.—*T. J.*

[1] Beccaria. § 32. Suicide. Homicides are, 1. Justifiable. 2. Excusable. 3. Felonious. For the last, punishments have been already provided. The first are held to be totally without guilt, or rather commendable. The second are in some cases not quite unblamable. These should subject the party to marks of contrition; viz., the killing of a man in defence of property; so also in defence of one's person, which is a species of excusable homicide; because, although cases may happen where these also are commendable, yet most frequently they are done on too slight appearance of danger; as in return for a blow, kick, fillip, &c.; or on a person's getting into a house, not animo furandi, but perhaps veneris causa, &c. Bracton says, "si quis furem nocturnum occident, ita demum impune foret, si parcere ei sine periculo suo non potuit, si autem potuit, aliter erit." "Item erit si quis hamsokne quæ dicitur invasio domus contra pacem domini regis in domo sua se defenderit, et invasor occisus fuerit; impersecutus et insultus remanebit, si ille quem invasit aliter se defendere non potuit; dicitur enim quod non est dignus habere pacem qui non vult observare eam." L. 3. c. 23. § 3. "Qui latronem occiderit, non tenetur, nocturnum vel diurnum, si aliter periculum evadere non possit; tenetur tamen si possit. Item non tenetur si per infortunium, et non animo et voluntate occidendi, nec dolus, nec culpa ejus inveniatur." L. 3. c. 36. § 1. The stat. 24. H. 8. c. 5. is therefore merely declaratory of the Common law. See on the general subject Puffend. 2. 5. § 10. 11. 12. 16. 17. Excusable homicides are by misadventure, or in self-defence. It is the opinion of some lawyers, that the Common law punished these with death, and that the statute of Marlbridge c. 26. and Gloucester, c. 9. first took away this by giving them title to a pardon, as matter of right, and a writ of restitution of their goods. See 2. Inst. 148. 315. 3. Inst. 55. Bracton L. 3. c. 4. § 2. Fleta L. 1. c. 23. § 14. 15. 21. E. 3. 23. But it is believed never to have been capital. 1. H. P. C. 425. 1 Hawk. 75. Foster, 282. 4. Bl. 188. It seems doubtful also, whether at Common law, the party forfeited all his chattels in this case, or only paid a weregild. Foster, ubi supra, doubts, and thinks it of no consequence, as the statute of Gloucester entitles the party to Royal grace, which goes as well to forfeiture as life. To

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SECT. XIII. Whenever sentence of death shall have been pronounced against any person for treason or murder, execution thereof shall be done on the next day but one, after such sentence, unless it be Sunday, and then on the Monday following.[1]

SECT. XIV. Whosoever shall be guilty of rape,[2] [*polyg-*

me there seems no reason for calling these excusable homicides, and the killing a man in defence of property, a justifiable homicide. The latter is less guiltless than misadventure or self-defence.

Suicide is by law punishable by forfeiture of chattels. This bill exempts it from forfeiture. The suicide injures the State less than he who leaves it with his effects. If the latter then be not punished, the former should not. As to the example, we need not fear its influence. Men are too much attached to life, to exhibit frequent instances of depriving themselves of it. At any rate, the quasi-punishment of confiscation will not prevent it. For if one be found who can calmly determine to renounce life, who is so weary of his existence here, as rather to make experiment of what is beyond the grave, can we suppose him, in such a state of mind, susceptible of influence from the losses to his family from confiscation? That men in general, too, disapprove of this severity, is apparent from the constant practice of juries finding the suicide in a state of insanity; because they have no other way of saving the forfeiture. Let it then be done away.—*T. J.*

[1] Beccaria. § 19. 25. G. 2. c. 37.—*T. J.*

[2] 13. E. 1. c. 34. Forcible abduction of a woman having substance is felony by 3. H. 7. c. 2. 3 Inst. 61. 4 Bl. 208. If goods be taken, it will be felony as to them, without this statute; and as to the abduction of the woman, quære if not better to leave that, and also kidnapping, 4. Bl. 219. to the Common law remedies, viz., fine, imprisonment, and pillory, Raym. 474. 2 Show. 221. Skin. 47. Comb. 10. the writs of Homine replegiando, Capias in Withernam, Habeas corpus, and the action of trespass? Rape was felony at the Common law. 3. Inst. 60. but see 2. Inst. 181. further—for its definition see 2. Inst. 180. Bracton, L. 3. c. 28. § 1. says the punishment of rape is "amissio membrorum, ut sit membrum pro membro, quia virgo, cum corrumpitur, membrum amittit, et ideo corruptor puniatur in eo in quo deliquit; oculus igitur amittat propter aspectum decoris quo virginem concupivit; amittat et testiculos qui calorem stupri induxerunt. Olim quidem corruptores virginitatis et castitatis suspendebantur et eorum fautores, &c. Modernis tamen temporibus aliter observatur," &c. And Fleta, "solet justiciarius pro quolibet mahemio ad amissionem testiculorum vel oculorum convictum condemnare, sed non sine errore, eo quod id judicium nisi in corruptione virginum tantum competebat; nam pro virginitatis corruptione solebant abscidi et merito judiciari, ut sic pro membro quod abstulit, membrum per quod deliquit amitteret, viz., testiculos, qui calorem stupri induxerunt," &c. Fleta, L. 1. c. 40. § 4. "Gif theow man theowne to nydhed genyde, gabte mid his eowende:" Si servus servam

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amy,[1]] or sodomy [2] with man or woman, shall be punished; if a man, by castration,[3] if a woman, by boring [4] through the cartilage of her nose a hole of one half inch in diameter at the least.

ad stuprum coegerit, compenset hoc virga sua virili. Si quis puellam," &c. Ll. Aelfridi. 25. "Hi purgist femme per forze forfait ad les membres. Ll. Gul. conq. 19. In Dyer, 305, a man was indicted, and found guilty of a rape on a girl of seven years old. The court "doubted of the rape of so tender a girl; but if she had been nine years old, it would have been otherwise." 14. Eliz. Therefore the statute 18. Eliz. c. 6. says, "For plain declaration of law, be it enacted, that if any person shall unlawfully and carnally know and abuse any woman child, under the age of ten years, &c., he shall suffer as a felon, without allowance of clergy." Lord Hale, however, 1. P. C. 630. thinks it rape independent of that statute, to know carnally, a girl under twelve, the age of consent. Yet 4. Bl. 212. seems to neglect this opinion; and as it was founded on the words of 3. E. 1. c. 13. and this is with us omitted, the offence of carnally knowing a girl under twelve, or ten years of age, will not be distinguished from that of any other.—*T. J.*

[1] This word was not in the *Report of the Revisors*, but was inserted by Jefferson in the MS. copy already alluded to. He adds as notes to it: "1. Jac. 1. c. 11. Polygamy was not penal till the statute 1. Jac. The law contented itself with the nullity of the act. 4. Bl. 163. 3. Inst. 88."

"But no one shall be punished for Polygamy, who shall have married after probable information of the death of his or her husband or wife, or after his or her husband or wife, hath absented him or herself, so that no notice of his or her being alive hath reached such person for seven years together, or hath suffered the punishments before prescribed for rape, polygamy, or sodomy."

[2] § 25. H. 8. c. 6. Buggery is twofold. 1. With mankind, 2. with beasts. Buggery is the Genus, of which Sodomy and Bestiality, are the species. 12. Co. 37. says, "note that Sodomy is with mankind." But Finch's L. B. 3. c. 24. "Sodomiary is a carnal copulation against nature, to wit, of man or woman in the same sex, or of either of them with beasts." 12. Co. 36. says, "it appears by the ancient authorities of the law that this was felony." Yet the 25. H. 8. declares it felony, as if supposed not to be so. Britton, c. 9. says, that Sodomites are to be burnt. F. N. B. 269. b. Fleta, L. 1. c. 37. says, "pecorantes et Sodomitæ in terra vivi confodiantur." The Mirror makes it treason. Bestiality can never make any progress; it cannot therefore be injurious to society in any great degree, which is the true measure of criminality in foro civili, and will ever be properly and severely punished, by universal derision. It may, therefore, be omitted. It was anciently punished with death, as it has been latterly. Ll. Aelfrid. 31. and 25. H. 8. c. 6. see Beccaria. § 31. Montesq.—*T. J.*

[3] Bracton, Fleta, &c.—*T. J.*

[4] Altered to "cutting" in MS. copy.

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SECT. XV. Whosoever on purpose,[1] shall disfigure another, by cutting out or disabling the tongue, slitting or cutting off a nose, lip, or ear, branding, or otherwise, shall be maimed, or disfigured in like[2] sort; or if that cannot be, for want of the same part, then as nearly as may be, in some other part of at least equal value and estimation, in the opinion of a jury, and moreover, shall forfeit one half of his lands and goods to the sufferer.

SECT. XVI. Whosoever shall counterfeit[3] any coin current by

[1] In the MS. copy the words "and of malice forethought shall maim another, or" are added here, and a note on this is:

"22. 23. Car. 2. c. 1. Maiming was felony at the Common law. Britton, c. 25. 'Mahemium autem dici poteri, aubia aliquis in aliqua parte sui corporis lesionem acceperit, per quam affectus sit inutilis ad pugnandum: ut si manus amputetur, vel pes, oculus privetur, vel scerda de osse capitis laveter, vel si quis dentes præcisores amiserit, vel castratus fuerit, et talis pro mahemiato poterit adjudicari.' Fleta L. 1. c. 40. 'Et volons que nul maheme ne soit tenus forsque de membre tollet dount home es plus feble a combatre, sicome del oyl, ou de la mayn, ou del pie, ou de la tete debruse, ou de les dentz devant." Britton, c. 25. For further definitions, see Bracton, L. 3. c. 24 § 3. 4. Finch L. B. 3. c. 12. Co. L. 126. a. b. 288. a. 3. Bl. 121. 4. Bl. 205. Stamf. P. C. L. 1. c. 41. I do not find any of these definitions confine the offence to wilful and malicious perpetrations of it. 22. 23. Car. 2. c. 1. called the Coventry act, has the words 'on purpose and of malice forethought.' Nor does the Common law prescribe the same punishment for disfiguring, as for maiming."—*T. J.*

[2] The punishment was by retaliation. "Et come ascun appele serra de tele felonie atteint et attende jugement, si soit le judgment tiel que il perde autriel membre come il avera tollet al pleintyfe. Et sy la pleynte soi faite de femme que avera tollet a home ses membres, en tiel cas perdra la femme la une meyn par jugement, come le membre dount ele axera trespasse." Britton, c. 25. Fleta, B. 1. c. 40. Ll. Ælfr. 19. 40.—*T. J.*

[3] 25. E. 3. st. 5 c. 2. 5. El. c. 11. 18. El. c. 1. 8. 9. W. 3. c. 26. 15. 16. G. 2. c. 28. 7. Ann. c. 25. By the laws of Æthelstan and Canute, this was punished by cutting off the hand. "Gif se mynetere ful wurthe slea man tha hand of, the he that ful mid worthe and sette uppon tha mynet smiththan." In English characters and words "if the minter foul [criminal] wert, slay the hand off, that he the foul [crime] with wrought, and set upon the mint-smithery." Ll. Aethelst. 14. "Et si quis praeter hanc, falsam fecerit, perdat manum quacum falsam confecit." Ll. Cnuti. 8. It had been death by the Ll. Æthelredi sub fine. By those of H. 1. "si quis cum falso denario inventus fuerit—fiat justitia mea, saltem de dextro pugno et de testiculis." Anno 1108. Operæ pretium vero est audire quam severus rex fuerit in pravos. Monetarios enim fere omnes totius Angliæ fecit ementulari, et manus dextras abscindi, quia monetam

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law within this commonwealth, or any paper bills issued in the nature of money, or of certificates of loan, on the credit of this commonwealth, or of all or any of the United States of America, or any Inspectors' notes for tobacco, or shall pass any such counterfeited coin, paper bills, or notes, knowing them to be counterfeit; or, for the sake of lucre, shall diminish[3] each, or any such coin, shall be condemned to hard labour six years in the public works, and shall forfeit all his lands and goods to the commonwealth.

SECT. XVII. The making false any such paper bill, or note, shall be deemed counterfeiting.

SECT. XVIII.[3] Whosoever committeth arson, shall be condemned to hard labour five years in the public works, and shall make good the loss of the sufferers threefold.[4]

furtive corruperant. Wilkins ib. et anno 1125. When the Common law became settled, it appears to have been punishable by death. "Est aluid genus criminis quod sub nomine falsi continetur, et tangit coronam domini regis, et ultimum inducit supplicium, sicut de illis qui falsam fabricant monetam, et qui de re non reproba, faciunt reprobam; sicut sunt retonsores denariorum. Bract. L. 3. c § 2. Fleta, L. 1. c. 22. § 4. Lord Hale thinks it was deemed petty treason at common law. 1. H. P. C. 220. 224. The bringing in false money with *intent* to merchandize, and make payment of it, is treason, by 25. E. 3. But the best proof of the intention, is the act of passing it, and why not leave room for repentance here, as in other cases of felonies intended? 1. H. P. C. 229.—*T. J.*

[3] Clipping, filing, rounding, impairing, scaling, lightening, (the words in the statutes) are included in "diminishing;" gilding, in the word "casing;" coloring in the word "washing;" and falsifying, or making, is "counterfeiting."—*T. J.*

[3] 43 L. c. 13. confined to four counties. 22. 23. Car. 2. c. 7. 9. G. 1. c. 22. 9. G. 3. c. 29.—*T. J.*

[4] Arson was a felony at Common law—3. Inst. 66; punished by a fine, Ll. Aethelst. 6. But Ll. Cnuti, 61. make it a "scelus inexpiable." "Hus brec and bærnet and open thyfth æberemorth and hlaford swice æfter woruld laga is botleds." Word for word, "house break and burnt, and open theft, and manifest murther, and lord-treachery, afterworld's law is bootless." Bracton says it was punished by death. "Si quis turbida seditione incendium fecerit nequiter et in felonia, vel ob inimicitias, vel praedandi causa, capitali puniatur pœna vel sententia." Bract. L. 3. 27. He defines it as commissible by burning "aedes alienas." Ib. Britton, c. 9. "Ausi soit enquis de ceux que felonisement en temps de pees eient autre *blees* ou autre *mesons* ars, et ceux que

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SECT. XIX. If any person shall, within this Commonwealth, or, being a citizen thereof, shall without the same, wilfully destroy[1] or run[2] away with any sea-vessel, or goods laden on board thereof, or plunder or pilfer any wreck, he shall be condemned to hard labour five years in the public works, and shall make good the loss of the sufferers threefold.

SECT. XX. Whosoever committeth a robbery,[3] shall be condemned to hard labour four years in the public works, and shall make double reparation to the persons injured.

SECT. XXI. Whatsoever act, if committed on any mansion-house, would be deemed a burglary,[4] shall be burglary, if com-

serrount de ceo atteyntz, soient ars issint que eux soient punys par mesme cele chose dount ilz pecherent." Fleta, L. 1. c. 37. is a copy of Bracton. The Mirror c. 1. § 8. says, "Ardours sont que ardent citie, ville, maison home, maison beast, ou auters chatelx, de lour felonie en temps de pace pour haine ou vengeance." Again, c. 2. § 11. pointing out the words of the appellor "jeo dise que Sebright, &c., entiel meason ou *biens* mist de feu." Coke 3. Inst. 67. says, "the ancient authors extended this felony further than houses, viz., to sacks of corn, waynes or carts of coal, wood or other goods." He denies it as commissible, not only on the inset houses, parcel of the mansion house, but the outset also, as barn, stable, cowhouse, sheep house, dairy house, mill house, and the like, parcel of the mansion house. But "burning of a barn, being no parcel of a mansion house, is no felony," unless there be corn or hay within it. Ib. The 22. 23. Car. 2. and 9. G. 1. are the principal statutes against arson. They extend the offence beyond the Common law.—*T. J.*

[1] 1. Ann. st. 2. c. 9. 12. Ann. c. 18. 4. G. 1. c. 12. 26. G. 2. c. 19.—*T. J.*

[2] 11. 12. W. 3. c. 7.

[3] Robbery was a felony at Common law. 3 Inst. 68. "Scelus inexpiable," by the Ll. Cnuti. 61. [See before in Arson.] It was punished with death. Britt. c. 15, "de robbours et de larouns et de semblables mesfesours, soit ausi ententivement enquis—et tauntost soient ceux robbours juges a la mort." Fleta says, "si quis convictus fuerit de bonis viri robbatis vel asportatis ad sectam regis judicium capitale subibit. L. 1. c. 39. See also Bract. L. 3. c. 32. § 1.—*T. J.*

[4] Burglary was felony at the Common law. 3 Inst. 63. It was not distinguished by ancient authors, except the Mirror, from simple House-breaking, ib. 65. Burglary and House-breaking were called "Hamsockne diximus etiam de pacis violatione et de immunitatibus domus, si quis hoc in posterum fecerit ut perdat omne quod habet, et sit in regis arbitrio utrum vitam habeat. Eac we quædon be mundbryce and be ham socnum, sethe hit ofer this do thæt he dolie ealles thæs the age, and sy on Cyninges dome hwæther he life age; and we quoth of mound-breach, and of home-seeking he who it after this do, that he

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mitted on any other house; and he who is guilty of burglary, shall be condemned to hard labour four years in the public works, and shall make double reparation to the persons injured.

SECT. XXII. Whatsoever act, if committed in the night time, shall constitute the crime of burglary, shall, if committed in the day, be deemed house-breaking[1]; and whoever is guilty thereof, shall be condemned to hard labour three years in the public works, and shall make reparation to the persons injured.

SECT. XXIII. Whosoever shall be guilty of horse-stealing,[2]

dole all that he owe [owns], and is in king's doom whether he life owes [owns.] Ll. Eadmundi. c. 6. and see Ll. Cnuti. 61. "hus brec," in notes on Arson. ante. A Burglar was also called a Burgessor. "Et soit enquis de Burgessours et sunt tenus Burgessours trestous ceux que *felonisement* en temps de pees debrusont esglises ou auter mesons, ou murs ou portes de nos cytes, ou de nos Burghes." Britt. c. 10. "Burglaria est nocturna diruptio habitaculi alicujus, vel ecclesiæ, etiam murorum, partarumve civitatis aut burgi, ad feloniam aliquam perpetrandam. *Noctanter* dico, recentiores secutus; veteres enim hoc non adjungunt. Spelm. gloss. verb. Burglaria. It was punished with death. Ib. citn. from the office of a Coroner. It may be committed in the outset houses, as well as inset. 3 Inst. 65. though not under the same roof or contiguous, provided they be within the Curtilage or Homestall. 4 Bl. 225. As by the Common law, all felonies were clergiable, the stat. 23 H. 8. c. 1. 5. E. 6. c. 9. and 18 El. c. 7. first distinguished them, by taking the clerical privilege of impunity from the principals, and 3. 4. W. M. c. 9. from accessories before the fact. No *statute* defines what Burglary is. The 12 Ann. c. 7. decides the doubt whether, where breaking is subsequent to entry, it is Burglary. Bacon's Elements had affirmed, and 1. H. P. C. 554. had denied it. Our bill must distinguish them by different degrees of punishment.—*T. J.*

[1] At the Common law, the offence of Housebreaking was not distinguished from Burglary, and neither of them from any other larceny. The statutes at first took away clergy from Burglary, which made a leading distinction between the two offences. Later statutes, however, have taken clergy from so many cases of Housebreaking, as nearly to bring the offences together again. These are 23 H. 8. c. 1. 1 E. 6. c. 12. 5 and 6 E. 6. c. 9. 3 and 4 W. M. c. 9. 39 El. c. 15. 10 and 11 W. 3 c. 23. 12 Ann. c. 7. See Barr. 428. 4 Bl. 240. The circumstances which in these statutes characterize the offence, seem to have been occasional and unsystematical. The houses on which Burglary may be committed, and the circumstances which constitute that crime being ascertained, it will be better to define Housebreaking by the same subjects and circumstances, and let the crimes be distinguished only by the hour at which they are committed, and the degree of punishment.—*T. J.*

[2] The offence of Horse-stealing seems properly distinguishable from other

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shall be condemned to hard labour three years in the public works, and shall make reparation to the person injured.

SECT. XXIV. Grand larceny [1] shall be where the goods stolen are of the value of five dollars; and whosoever shall be guilty thereof, shall be forthwith put in the pillory for one half hour, shall be condemned to hard labour [2] two years in the public works, and shall make reparation to the person injured.

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larcenies, here, where these animals generally run at large, the temptation being so great and frequent, and the facility of commission so remarkable. See 1 E. 6. c. 12. 23 E. 6. c. 33. 31 El. c. 12.—*T. J.*

[1] The distinction between grand and petty larceny, is very ancient. At first 8d. was the sum which constituted grand larceny. Ll. Æthelst. c. 1. "Ne parcatur ulli furi, qui furtum manutenens captus sit, supra 12. annos nato, et supra 8. denarios." Afterwards, in the same king's reign it was raised to 12d. "non parcatur alicui furi ultra 12 denarios, et ultra 12 annos nato—ut occidemus illum et capiamus omne quod possidet, et imprimis sumamus rei furto ablatæ pretium ab haerede, ac dividatur postea reliquum in duas partes, una pars uxori, si munda, et facinoris conscia non sit; et residuum in duo, dimidium capiat rex, dimidium societas." Ll. Aethelst. Wilkins, p. 65.—*T. J.*

[2] Ll. Inae. c. 7. "Si quis furetur ita ut uxor ejus et infans ipsius nesciant, solvat 60. solidos pœnæ loco. Si autem furetur testantibus omnibus hæredibus suis, *abeant omnes in servitutem.*" Ina was king of the West-Saxons, and began to reign A. C. 688. After the union of the Heptarchy, i. e. temp. Æthelst. inter 924 and 940, we find it punishable with death as above. So it was inter 1017 and 1035, i. e. temp. Cnuti. Ll. Cnuti. 61. cited in notes on Arson. In the time of William the conqueror, it seems to have been made punishable by fine only. Ll. Gul. conq. apud Wilk. p. 218, 220. This commutation, however, was taken away by Ll. H. 1. anno 1108. "Si quis in furto vel latrocinio deprehensus fuisset, suspenderetur; sublata wirgildorum, id est, pecuniaræ redemptionis lege." Larceny is the felonious taking and carrying away of the personal goods of another. 1. As to the taking, the 3. 4. W. M. c. 9 § 5. is not additional to the Common law, but declaratory of it; because where only the care or use, and not the possession, of things is delivered, to take them was larceny at the Common law. The 33 H. 6. c. 1. and 21, H. 8. c. 7. indeed, have added to the Common law, by making it larceny in a servant to convert things of his master's. But quære, if they should be imitated more than as to other breaches of trust in general. 2. As to the subject of larceny, 4 G. 2. c. 32. 6 G. 3. c. 36. 48. 45. El. c. 7. 15 Car. 2. c. 2. 23 G. 2. c. 26. 31 G. 2. c. 35. 9 G. 3. c. 41. 25 G. 2. c. 10. have extended larceny to things of various sorts either real, or fixed to the reality. But the enumeration is unsystematical, and in this country, where the produce of the earth is so spontaneous, as to have rendered things of this kind scarcely

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SECT. XXV. Petty larceny shall be, where the goods stolen are of less value than five dollars; whosoever shall be guilty thereof, shall be forthwith put in the pillory for a quarter of an hour, shall be condemned to hard labour for one year in the public works, and shall make reparation to the persons injured.

SECT. XXVI. Robbery[1] or larceny of bonds, bills obligatory, bills of exchange, or promissory notes, for the payment of money or tobacco, lottery tickets, paper bills issued in the nature of money, or certificates of loan on the credit of this commonwealth, or of all or any of the United States of America, or inspectors notes for tobacco, shall be punished in the same manner as robbery or larceny of the money or tobacco due on, or represented by such papers.

SECT. XXVII. Buyers[2] and receivers of goods taken by way of robbery or larceny, knowing them to have been so taken, shall be deemed accessaries to such robbery or larceny after the fact.

SECT. XXVIII. Prison-breakers,[3] also, shall be deemed accessaries after the fact, to traitors or felons whom they enlarge from prison.[4]

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a breach of civility or good manners, in the eyes of the people, quære, if it would not too much enlarge the field of Criminal law? The same may be questioned of 9 G. 1. c. 22. 13 Car. 2. c. 10. 10 G. 2. c. 32. 5 G. 3. c. 14. 22 and 23 Car. 2. c. 25. 37 E. 3. c. 19. making it felony to steal animals feræ naturæ.—*T. J.*

[1] 2 G. 2. c. 25 § 3. 7 G. 3. c. 50.—*T. J.*

[2] 3. 4. W. M. c. 9. § 4. 5 Ann. c. 31. § 5. 4 G. 1. c. 11. § 1.—*T. J.*

[3] 1 E. 2.—*T. J.*

[4] Breach of prison at the Common law was capital, without regard to the crime for which the party was committed. "Cum pro criminis qualitate in carcerem recepti fuerint, conspiraverint (ut ruptis vinculis aut fracto carcere) evadant, amplius (quam causa pro qua recepti sunt exposeit) puniendi sunt, videlicet ultimo supplicio, quamvis ex eo crimine innocentes inveniantur, propter quod inducti sunt in carcerem et imparcati. Bracton L. 3. c. 9. § 4. Britt. c. 11. Fleta, L. 1. c. 26. § 4. Yet in the Y. B. Hill. 1. H. 7. 2. Hussey says, that by the opinion of Billing and Coke, and all the justices, it was a felony in strangers only, but not in the prisoner himself. S. C. Fitz. Abr. Coron. 48. They are the principal felons, not accessaries. ib. Whether it was felony in the prisoner at Common law, is doubted. Stam. P. C. 30. b. The Mirror c. 5. § 1, says, "abusion est a tener escape de prisoner, ou de bruserie del gaole pur peche mortell, car cel usage nest garrant per nul ley, ne in nul part est use

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SECT. XXIX. All attempts to delude the people, or to abuse their understanding by exercise of the pretended arts of witchcraft, conjuration, enchantment, or sorcery, or by pretended prophecies, shall be punished by ducking and whipping, at the discretion of a jury, not exceeding fifteen stripes.[1]

SECT. XXX. If the principal offenders be fled,[2] or secreted from justice, in any case not touching life or member, the accessaries may, notwithstanding, be prosecuted as if their principal were convicted.[3]

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forsque in cest realme, et en France, eins [mais] est leu garrantie de ceo faire per la ley de nature." 2 Inst. 589. The stat. 1. E. 2. de fraugentibus prisonam, restrained the judgment of life and limb for prison breaking, to cases where the offence of the prisoner required such judgment.

It is not only vain, but wicked, in a legislator to frame laws in opposition to the laws of nature, and to arm them with the terrors of death. This is truly creating crimes in order to punish them. The law of nature impels every one to escape from confinement; it should not, therefore, be subjected to punishment. Let the legislator restrain his criminal by walls, not by parchment. As to strangers breaking prison to enlarge an offender, they should, and may be fairly considered as accessaries after the fact. This bill says nothing of the prisoner releasing himself by breach of jail, he will have the benefit of the first section of the bill, which repeals the judgment of life and death at the common law.—*T. J.*

[1] Gif wiccan owwe wigleras nansworan, owwe morthwyrhtan owwe fule afylede æbere horcwenan ahwhar on lande wurthan agytene, thonne fyrsie man of earde and clænsie tha theode, owwe on earde forfare hi mid ealle, buton hi geswican and the deoper gebetan: if witches, or weirds, man-swearers, murther-wroughters, or foul, defiled, open whore-queens, anywhere in the land were gotten, then force them off earth, and cleanse the nation, or in earth forth-fare them withal, but on they beseech, and deeply better, Ll. Ed. et Guthr. c. 11. "Sagæ, mulieres barbara, factitantes sacrificia, aut pestiferi, si cui mortem intulerint, neque id inficiari poterint, capitis poena esto." Ll. Æthelst. c. 6. apud Lambard. Ll. Aelfr. 30. Ll. Cnuti. c. 4. "Mesme cel jugement (d'etrears) eyent sorcers, et sorceresses, &c. ut supra. Fleta ut et ubi supra. 3. Inst. 44. Trial of witches before Hale in 1664. The statutes 33 H. 8. c. 8. 5 El. c. 16 and 1 Jac. 1. c. 12. seem to be only in confirmation of the Common law. 9 G. 2. c. 25. punishes them with pillory, and a year's imprisonment. 3 E. 6. c. 15. 5 El. c. 15. punish fond, fantastical and false prophecies, by fine and imprisonment.—*T. J.*

[2] 1 Ann. c. 9. § 2.—*T. J.*

[3] As every treason includes within it a misprision of treason, so every felony includes a misprision, or misdemeanor. 1 Hale P. C. 652. 708. "Licet fuerit

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SECT. XXXI. If any offender stand mute of obstinacy,[1] or challenge peremptorily more of the jurors than by law he may, being first warned of the consequence thereof, the court shall proceed as if he had confessed the charge.[2]

SECT. XXXII. Pardon and privilege of clergy, shall henceforth be abolished, that none may be induced to injure through hope of impunity. But if the verdict be against the defendant, and the court, before whom the offence is heard and determined, shall doubt that it may be untrue for default of testimony, or other cause, they may direct a new trial to be had.[3]

felonia, tamen in eo continetur misprisio." 2 R. 3. 10. Both principal and accessary, therefore, may be proceeded against in any case, either for felony or misprision, at the Common law. Capital cases not being mentioned here, accessaries to them will of course be triable for misprisions, if the offender flies.—*T. J.*

[1] E. 1. c. 12.—*T. J.*

[2] Whether the judgment of penance lay at Common law. See 2 Inst. 178. 2 H. P. C. 321. 4 Bl. 322. It was given on standing mute; but on challenging more than the legal number, whether that sentence, or sentence of death is to be given, seems doubtful. 2 H. P. C. 316. Quære, whether it would not be better to consider the supernumerary challenge as merely void, and to proceed in the trial? Quære too, in case of silence?—*T. J.*

[3] "Cum Clericus sic de crimine convictus degradetur non sequitur alia pœna pro uno delicto, vel pluribus ante degradationem perpetratis. Satis enim sufficit ei pro pœna degradatio, quæ est magna capitis diminutio, nisi forte convictus fuerit de apostatia, quia hinc primo degradetur, et postea per manum laicalem comburetur, secundum quod accidit in concilio Oxoni celebrato a bonæ memoriæ S. Cantuanen. Archiepiscopo de quodam diacono, qui se apostatavit pro quadam Judæ; qui cum esset per episcopum degradatus, statim fuit igni traditus per manum laicalem." Bract. L. 3. c. 9. § 2. "Et mesme cel jugement (i. e. qui ils soient ars eyent) sorcers et sorceresses, et sodomites et mescreauntz apertement atteyntz." Britt. c. 9. "Christiani autem Apostatæ, sortilegii, et hujusmodi detractari debent et comburi." Fleta, L. 1. c. 37. § 2 see 3. Inst. 39. 12. Rep. 92. 1 H. P. C. 393. The extent of the clerical privilege at the Common law. 1. As to the crimes, seems very obscure and uncertain. It extended to no case where the judgment was not of life, or limb. Note in 2. H. P. C. 326. This therefore excluded it in trespass, petty larceny, or killing se defendendo. In high treason against the person of the King, it seems not to have been allowed. Note 1. H. P. C. 185. Treasons, therefore, not against the King's person immediately, petty treasons and felonies, seem to have been the cases where it was allowed; and even of those, not for insidiatio varium, depopulatio agrorum, or combustio domorum. The statute de Clero,

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SECT. XXXIII. No attainder shall work corruption of blood in any case.

SECT. XXXIV. In all cases of forfeiture, the widow's dower shall be saved to her, during her title thereto; after which it shall be disposed of as if no such saving had been.

SECT. XXXV. The aid of Counsel,[1] and examination of their witnesses on oath, shall be allowed to defendants in criminal prosecutions.

SECT. XXXVI. Slaves guilty of any offence[2] punishable in others by labour in the public works, shall be transported to such parts in the West-Indies, South-America, or Africa, as the Governor shall direct, there to be continued in slavery.

A BILL FOR THE MORE GENERAL DIFFUSION OF KNOWLEDGE.

(CHAPTER LXXIX.)

SECTION I. Whereas it appeareth that however certain forms of government are better calculated than others to protect individuals in the free exercise of their natural rights, and are at the

25 E. 3. st. 3. c. 4. settled the law on this head. 2. As to the persons, it extended to all clerks, always, and toties quoties. 2 H. P. C. 374. To nuns also. Fitz. Abr. Corone. 461. 22. E. 3. The clerical habit and tonsure were considered as evidence of the person being clerical. 26. Assiz. 19. 20. E. 2. Fitz. Corone. 233. By the 9 E. 4. 28. b. 34. H. 6. 49 a. b. a simple reading became the evidence. This extended impunity to a great number of laymen, and toties quoties. The stat. 4 H. 7. c. 13. directed that real clerks should, upon a second arraignment, produce their orders, and all others to be burnt in the hand with M. or T. on the first allowance of clergy, and not to be admitted to it a second time. A heretic, Jew, or Turk (as being incapable of orders) could not have clergy. 11. Co. Rep. 29 b. But a Greek, or other alien, reading in a book of his own country, might. Bro. Clergie. 20. So a blind man, if he could speak Latin. Ib. 21. qu. 11. Rep. 29. b. The orders entitling the party, were bishops, priests, deacons and subdeacons, the inferior being reckoned Clerici in minoribus. 2. H. P. C. 373. Quære, however, if this distinction is not founded on the stat. 23 H. 8. c. 1. 25 H. 8. c. 32. By merely dropping all the statutes, it should seem that none but clerks would be entitled to this privilege, and that they would, toties quoties.—*T. J.*

[1] 1 Ann. c. 9.—*T. J.*

[2] Manslaughter, counterfeiting, arson, asportation of vessels, robbery, burglary, house-breaking, horse-stealing, larceny.—*T. J.*

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same time themselves better guarded against degeneracy, yet experience hath shewn, that even under the best forms, those entrusted with power have, in time, and by slow operations, perverted it into tyranny; and it is believed that the most effectual means of preventing this would be, to illuminate, as far as practicable, the minds of the people at large, and more especially to give them knowledge of those facts, which history exhibiteth, that, possessed thereby of the experience of other ages and countries, they may be enabled to know ambition under all its shapes, and prompt to exert their natural powers to defeat its purposes; And whereas it is generally true that that people will be happiest whose laws are best, and are best administered, and that laws will be wisely formed, and honestly administered, in proportion as those who form and administer them are wise and honest; whence it becomes expedient for promoting the publick happiness that those persons, whom nature hath endowed with genius and virtue, should be rendered by liberal education worthy to receive, and able to guard the sacred deposit of the rights and liberties of their fellow citizens, and that they should be called to that charge without regard to wealth, birth or other accidental condition or circumstance; but the indigence of the greater number disabling them from so educating, at their own expence, those of their children whom nature hath fitly formed and disposed to become useful instruments for the public, it is better that such should be sought for and educated at the common expence of all, than that the happiness of all should be confined to the weak or wicked:

SECT. II. Be it therefore enacted by the General Assembly, that in every county within this commonwealth, there shall be chosen annually, by the electors qualified to vote for Delegates, three of the most honest and able men of their county, to be called the Aldermen of the county; and that the election of the said Aldermen shall be held at the same time and place, before the same persons, and notified and conducted in the same manner as by law is directed, for the annual election of Delegates for the county.

SECT. III. The person before whom such election is holden shall certify to the court of the said county the names of the Aldermen chosen, in order that the same may be entered of record, and shall give notice of their election to the said Aldermen within a fortnight after such election.

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SECT. IV. The said Aldermen on the first Monday in October, if it be fair, and if not, then on the next fair day, excluding Sunday, shall meet at the court-house of their county, and proceed to divide their said county into hundreds, bounding the same by water courses, mountains, or limits, to be run and marked, if they think necessary, by the county surveyor, and at the county expence, regulating the size of the said hundreds, according to the best of their discretion, so as that they may contain a convenient number of children to make up a school, and be of such convenient size that all the children within each hundred may daily attend the school to be established therein, and distinguishing each hundred by a particular name; which division, with the names of the several hundreds, shall be returned to the court of the county and be entered of record, and shall remain unaltered until the increase or decrease of inhabitants shall render an alteration necessary, in the opinion of any succeeding Alderman, and also in the opinion of the court of the county.

SECT. V. The electors aforesaid residing within every hundred shall meet on the third Monday in October after the first election of Aldermen, at such place, within their hundred, as the said Aldermen shall direct, notice thereof being previously given to them by such person residing within the hundred as the said Aldermen shall require who is hereby enjoined to obey such requisition, on pain of being punished by amercement and imprisonment. The electors being so assembled shall choose the most convenient place within their hundred for building a school-house. If two or more places, having a greater number of votes than any others, shall yet be equal between themselves, the Aldermen, or such of them as are not of the same hundred, on information thereof, shall decide between them. The said Aldermen shall forthwith proceed to have a school-house built at the said place, and shall see that the same shall be kept in repair, and, when necessary, that it be rebuilt; but whenever they shall think necessary that it be rebuilt, they shall give notice as before directed, to the electors of the hundred to met at the said school-house, on such a day as they shall appoint, to determine by vote, in the manner before directed, whether it shall be rebuilt at the same, or what other place in the hundred.

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SECT. VI. At every of those schools shall be taught reading, writing, and common arithmetick, and the books which shall be used therein for instructing the children to read shall be such as will at the same time make them acquainted with Græcian, Roman, English, and American history. At these schools all the free children, male and female, resident within the respective hundred, shall be intitled to receive tuition gratis, for the term of three years, and as much longer, at their private expence, as their parents, guardians, or friends shall think proper.

SECT. VII. Over every ten of these schools (or such other number nearest thereto, as the number of hundreds in the county will admit, without fractional divisions) an overseer shall be appointed annually by the aldermen at their first meeting, eminent for his learning, integrity, and fidelity to the commonwealth, whose business and duty it shall be, from time to time, to appoint a teacher to each school, who shall give assurance of fidelity to the commonwealth, and to remove him as he shall see cause; to visit every school once in every half year at the least; to examine the scholars; see that any general plan of reading and instruction recommended by the visiters of William and Mary College shall be observed; and to superintend the conduct of the teacher in everything relative to his school.

SECT. VIII. Every teacher shall receive a salary of ——— by the year, which, with the expences of building and repairing the school-houses, shall be provided in such manner as other county expences are by law directed to be provided and shall also have his diet, lodging, and washing found him, to be levied in like manner, save only that such levy shall be on the inhabitants of each hundred for the board of their own teacher only.

SECT. IX. And in order that grammer schools may be rendered convenient to the youth in every part of the commonwealth, be it therefore enacted, that on the first Monday in November, after the first appointment of overseers for the hundred schools, if fair, and if not, then on the next fair day, excluding Sunday, after the hour of one in the afternoon, the said overseer appointed for the schools in the counties of Princess Ann, Norfolk, Nansemond and Isle-of-Wight, shall meet at Nansemond court-house; those for the counties of Southampton, Sussex, Surry and Prince George,

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shall meet at Sussex court-house; those for the counties of Brunswick, Mecklenburg and Lunenburg, shall meet at Lunenburg court-house; those for the counties of Dinwiddie, Amelia and Chesterfield, shall meet at Chesterfield court-house; those for the counties of Powhatan, Cumberland, Goochland, Henrico and Hanover, shall meet at Henrico court-house; those for the counties of Prince Edward, Charlotte and Halifax, shall meet at Charlotte court-house; those for the counties of Henry, Pittsylvania and Bedford, shall meet at Pittsylvania court-house; those for the counties of Buckingham, Amherst, Albemarle and Fluvanna, shall meet at Albemarle court-house; those for the counties of Botetourt, Rockbridge, Montgomery, Washington and Kentucky, shall meet at Botetourt court-house; those for the counties of Augusta, Rockingham and Greenbriar, shall meet at Augusta court-house; those for the counties of Accomack and Northampton, shall meet at Accomack court-house; those for the counties of Elizabeth City, Warwick, York, Gloucester, James City, Charles City and New-Kent, shall meet at James City court-house; those for the counties of Middlesex, Essex, King and Queen, King William and Caroline, shall meet at King and Queen court-house; those for the counties of Lancaster, Northumberland, Richmond and Westmoreland, shall meet at Richmond court-house; those for the counties of King George, Stafford, Spotsylvania, Prince William and Fairfax, shall meet at Spotsylvania court-house; those for the counties of Loudoun and Fauquier, shall meet at Loudoun court-house; those for the counties of Culpeper, Orange and Louisa, shall meet at Orange court-house; those for the county of Shenandoah and Frederick, shall meet at Frederick court-house; those for the counties of Hampshire and Berkeley, shall meet at Berkeley court-house; and those for the counties of Yohogania, Monongalia, and Ohio, shall meet at the Monongalia court-house; and shall fix on such place in some one of the counties in their district as shall be most proper for situating a grammer school-house, endeavoring that the situation be as central as may be to the inhabitants of the said counties, that it be furnished with good water, convenient to plentiful supplies of provision and fuel, and more than all things that it be healthy. And if a majority of the overseers present should not concur in their choice of any one place pro-

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posed, the method of determining shall be as follows: If two places only were proposed, and the votes be divided, they shall decide between them by fair and equal lot; if more than two places were proposed, the question shall be put on those two which on the first division had the greater number of votes; or if no two places had a greater number of votes than the others, then it shall be decided by fair and equal lot (unless it can be agreed by a majority of votes) which of the places having equal numbers shall be thrown out of the competition, so that the question shall be put on the remaining two, and if on this ultimate question the votes shall be equally divided, it shall then be decided finally by lot.

SECT. X. The said overseers having determined the place at which the grammer school for their district shall be built, shall forthwith (unless they can otherwise agree with the proprietors of the circumjacent lands as to location and price) make application to the clerk of the county in which the said house is to be situated, who shall thereupon issue a writ, in the nature of a writ of ad quod damnum, directed to the sheriff of the said county commanding him to summon and impannel twelve fit persons to meet at the place, so destined for the grammer school-house, on a certain day, to be named in the said writ, not less than five, nor more than ten, days from the date thereof; and also to give notice of the same to the proprietors and tenants of the lands to be viewed if they be found within the county, and if not, then to their agents therein if any they have. Which freeholders shall be charged by the said sheriff impartially, and to the best of their skill and judgment to view the lands round about the said place, and to locate and circumscribe, by certain meets and bounds, one hundred acres thereof, having regard therein principally to the benefit and convenience of the said school, but respecting in some measure also the convenience of the said proprietors, and to value and appraise the same in so many several and distinct parcels as shall be owned or held by several and distinct owners or tenants, and according to their respective interests and estates therein. And after such location and appraisement so made, the said sheriff shall forthwith return the same under the hands and seals of the said jurors, together with the writ, to

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the clerk's office of the said county and the right and property of the said proprietors and tenants in the said lands so circumscribed shall be immediately devested and be transferred to the commonwealth for the use of the said grammer school, in full and absolute dominion, any want of consent or disability to consent in the said owners or tenants notwithstanding. But it shall not be lawful for the said overseers so to situate the grammer school-house, nor to the said jurors so to locate the said lands, as to include the mansion-house of the proprietor of the lands, nor the offices, curtilage, or garden, thereunto immediately belonging.

SECT. XI. The said overseers shall forthwith proceed to have a house of brick or stone, for the said grammer school, with necessary offices, built on the said lands, which grammer school-house shall contain a room for the school, a hall to dine in, four rooms for a master and usher, and ten or twelve lodging rooms for the scholars.

SECT. XII. To each of the said grammer schools shall be allowed out of the public treasury, the sum of
pounds, out of which shall be paid by the Treasurer, on warrant from the Auditors, to the proprietors or tenants of the lands located, the value of their several interests as fixed by the jury, and the balance thereof shall be delivered to the said overseers to defray the expense of the said buildings.

SECT. XIII. In either of these grammer schools shall be taught the Latin and Greek languages, English Grammer, geography, and the higher part of numerical arithmetick, to wit, vulgar and decimal fractions, and the extrication of the square and cube roots.

SECT. XIV. A visiter from each county constituting the district shall be appointed, by the overseers, for the county, in the month of October annually, either from their own body or from their county at large, which visiters, or the greater part of them, meeting together at the said grammer school on the first Monday in November, if fair, and if not, then on the next fair day, excluding Sunday, shall have power to choose their own Rector, who shall call and preside at future meetings, to employ from time to time a master, and if necessary, an usher, for the said school, to remove

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them at their will, and to settle the price of tuition to be paid by the scholars. They shall also visit the school twice in every year at the least, either together or separately at their discretion, examine the scholars, and see that any general plan of instruction recommended by the visiters, of William and Mary College shall be observed. The said masters and ushers, before they enter on the execution of their office, shall give assurance of fidelity to the commonwealth.

SECT. XV. A steward shall be employed, and removed at will by the master, on such wages as the visiters shall direct; which steward shall see to the procuring provisions, fuel, servants for cooking, waiting, house cleaning, washing, mending, and gardening on the most reasonable terms; the expence of which, together with the steward's wages, shall be divided equally among all the scholars boarding either on the public or private expence. And the part of those who are on private expence, and also the price of their tuitions due to the master or usher, shall be paid quarterly by the respective scholars, their parents, or guardians, and shall be recoverable, if withheld, together with costs, on motion in any Court of Record, ten days notice thereof being previously given to the party, and a jury impannelled to try the issue joined, or enquire of the damages. The said steward shall also, under the direction of the visiters, see that the houses be kept in repair, and necessary enclosures be made and repaired, the accounts for which, shall, from time to time, be submitted to the Auditors, and on their warrant paid by the Treasurer.

SECT. XVI. Every overseer of the hundred schools shall, in the month of September annually, after the most diligent and impartial examination and inquiry, appoint from among the boys who shall have been two years at the least at some one of the schools under his superintendance, and whose parents are too poor to give them farther education, some one of the best and most promising genius and disposition, to proceed to the grammer school of his district; which appointment shall be made in the court-house of the county, and on the court day for that month if fair, and if not, then on the next fair day, excluding Sunday, in the presence of the Aldermen, or two of them at the least, assembled on the bench for that purpose, the said overseer being

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previously sworn by them to make such appointment, without favor or affection, according to the best of his skill and judgment, and being interrogated by the said Aldermen, either on their own motion, or on suggestions from the parents, guardians, friends, or teachers of the children, competitors for such appointment; which teachers the parents shall attend for the information of the Aldermen. On which interrogatories the said Aldermen, if they be not satisfied with the appointment proposed, shall have right to negative it; whereupon the said visiter may proceed to make a new appointment, and the said Aldermen again to interrogate and negative, and so toties quoties until an appointment be approved.

SECT. XVII. Every boy so appointed shall be authorized to proceed to the grammer school of his district, there to be educated and boarded during such time as is hereafter limited; and his quota of the expences of the house together with a compensation to the master or usher for his tuition, at the rate of twenty dollars by the year, shall be paid by the Treasurer quarterly on warrant from the Auditors.

SECT. XVIII. A visitation shall be held, for the purpose of probation, annually at the said grammer school on the last Monday in September, if fair, and if not, then on the next fair day, excluding Sunday, at which one third of the boys sent thither by appointment of the said overseers, and who shall have been there one year only, shall be discontinued as public foundationers, being those who, on the most diligent examination and enquiry, shall be thought to be the least promising genius and disposition; and of those who shall have been there two years, all shall be discontinued save one only the best in genius and disposition, who shall be at liberty to continue there four years longer on the public foundation, and shall thence forward be deemed a senior.

SECT. XIX. The visiters for the districts which, or any part of which, be southward and westward of James river, as known by that name, or by the names of Fluvanna and Jackson's river, in every other year, to wit, at the probation meetings held in the years, distinguished in the Christian computation by odd numbers, and the visiters for all the other districts at their said

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meetings to be held in those years, distinguished by even numbers, after diligent examination and enquiry as before directed, shall chuse one among the said seniors, of the best learning and most hopeful genius and disposition, who shall be authorized by them to proceed to William and Mary College; there to be educated, boarded, and clothed, three years; the expence of which annually shall be paid by the Treasurer on warrant from the Auditors.

A BILL FOR THE AMENDING THE CONSTITUTION OF THE COLLEGE OF WILLIAM AND MARY.

(CHAPTER LXXX.)

SECTION I. Whereas a scheme for cultivating and disseminating useful knowledge in this country, which had been proposed by some of its liberal minded inhabitants, before the year 1690 of the Christian epocha, was approved, adopted, and cherished, by the General Assembly, upon whose petition King William and Queen Mary of England, to the crown whereof the people here at that time acknowledged themselves, as a colony, to be subject, by their charter bearing date the seventh day of February, in the fourth year of their reign, gave license, in due form, to Francis Nicholson, Esquire, Lieutenant Governor of the colony, and seventeen other trustees, particularly named, to found a place of universal study, or perpetual college, in such part of the country as the General Assembly should think fit, consisting of a President, six Professors, and an hundred scholars, more or less; enabled the trustees, and their survivors, to take and hold lands, tenements, and hereditaments, to the yearly value of two thousand pounds, with intention, and in confidence, that, after application of the profits thereof, with such donations as by themselves and others might be made for that purpose, to the erecting, founding, and adorning the college, they should transfer the same to the President and Professors; appointed James Blair, clerk, the first President, and empowered the trustees, and their successors, to elect the succeeding President, and the Professors; willed the college after it should be founded, to be called the College of

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William and Mary in Virginia; and incorporated the President and masters, enabling them and their successors to take and hold lands, tenements, hereditaments, goods and chattels, to the yearly value of two thousand pounds, of lawful money of England; appointed the trustees and their successors, to be elected in the manner therein prescribed, so as not to be less than eighteen, visiters of the College, with power to nominate one of themselves a rector annually and to ordain statutes for the government of the College, not contrary to the royal prerogative, the laws of England or Virginia, or the canons of the Church of England; willed that the President and Professors should have a Chancellor, to be nominated, every seventh year, in the manner therein prescribed; granted to the trustees a sum of money, then in the hands of William Byrd, Esquire, the Auditor, received for quitrents, to be applied towards erecting, founding and adorning the College; and also granted to the trustees, to be transferred to the President and Professors, in like manner as before directed, part of the then royal revenue, arising from the duty on tobacco exported; and also granted to the said trustees the office of surveyor general of Virginia, with intention, and in confidence, that they and their successors, or the longest livers of them, should receive the profits thereof, until the foundation of the College, and when that should be affected, account for and pay the same or the surplus above what should have been expended in that work, to the President and Professors; and that thereafter the said office should be held by the said President and Professors. And the said King and Queen, by their said charter, granted to the said trustees ten thousand acres of land, on the south side of the Blackwater swamp, and also other ten thousand acres of land in Pamunkey neck, between the forks or branches of the York river, with this intention, and in confidence, that the said trustees, or the longest livers of them, should transfer the said twenty thousand acres of land, after the foundation of the College, to the President and Professors; as by the said charter, among other things, relation being thereupon had, may more fully appear. And whereas voluntary contributions towards forwarding this beneficial scheme, the sum whereof exceeded two thousand pounds, sterling, was received by the said trustees,

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with one thousand pounds, sterling, out of the money arising from the quitrents granted to the use of said College by Queen Anne, part whereof was applied to the purchase of three hundred and thirty acres of land at the middle plantation, being the same place where the General Assembly, by their act, passed in the year 1693, had directed the said College to be built, and whereon the same was accordingly built, and the General Assembly, by one other act, passed in the same year 1693, intitled an Act for laying an imposition upon skins and furs, for the better support of the College of William and Mary in Virginia, endowed the said College with certain duties on skins and furs therein specified, which duties were afterwards enlarged and confirmed to the use of the said College, and made payable to the President and Professors by divers other acts of General Assembly. And by one other act passed in the year 1718, the said College was further endowed by the General Assembly with the sum of one thousand pounds, out of the public funds, in the hands of the Treasurer, which was directed to be laid out for the maintaining and educating scholars, and to be accounted for to the General Assembly, from time to time, when required: Which sum was accordingly paid to the said visiters and by them invested in the purchase of two thousand one hundred and nineteen acres of land, on both sides of the Nottoway river, in the counties of Prince George, Surrey, and Brunswick, and seventeen negro slaves, to be employed in tilling and manuring the same, and certain scholarships were accordingly established on the said funds; and the General Assembly, by their act, passed in the year 1726, and entitled an Act for laying a duty on liquors, further endowed the said College with an annual revenue of two hundred pounds, for twenty-one years, to be paid out of certain duties thereon imposed on liquors, and by one other act, passed in the year 1734, endowed it with the whole of the said duties, during the residue of the said term then unexpired, a part or the whole thereof to be expended in purchasing a library for the said College: And by divers other acts, passed at subsequent times, the Assemblies, for the time being, having continued to the said College the whole of the annual revenues, arising from the said duties, until the first of June, which shall be in the year 1780, to be applied to the funding

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scholarships, and other good uses, for the support of the said College, and to be accounted for to the General Assembly; and the General Assembly by of in the year gave a further donation to the said College of to be laid out in purchasing a mathematical apparatus for the said College, which was accordingly purchased. And the said trustees, in pursuance of the trust reposed in them, proceeded to erect the said College, and established one school of sacred theology, with two professorships therein, to wit, one for teaching the Hebrew tongue, and expounding the holy scriptures; and the other for explaining the common places of divinity, and controversies with heretics; one other school for philosophy, with two professorships therein, to wit, one for the study of rhetoric, logic, and ethics, and the other of physics, metaphysics, and mathematics; one other school for teaching the Latin and Greek tongues; and one other for teaching Indian boys reading, writing, vulgar arithmetic, the catechism and the principles of the Christian religion; which last school was founded on the private donation of the honorable Robert Boyle, of the kingdom of England, and, by authority from his executors, submitted to the direction of the Earl of Burlington, one of the said executors, of the bishop of London, for the time being, and in default thereof, to the said trustees, and over the whole they appointed one president as supervisor.

SECT. II. And whereas the experience of near an hundred years hath proved, that the said College, thus amply endowed by the public, hath not answered their expectations, and there is reason to hope, that it would become more useful, if certain articles in its constitution were altered and amended, which being fixed, as before recited, by the original charters, cannot be reformed by the said trustees whose powers are created and circumscribed by the said charters, and the said College being erected and constituted on the requisition of the General Assembly, by the Chief Magistrate of the state, their legal fiduciary for such purposes, being founded and endowed with the lands and revenues of the public, and intended for the sole use and improvement, and no wise in nature of a private grant, the same is of right subject to the public direction, and may by them

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be altered and amended, until such form be devised as will render the institution publicly advantageous, in proportion as it is publicly expensive; and the late change in the form of our government, as well as the contest of arms in which we are at present engaged, calling for extraordinary abilities both in council and field, it becomes the peculiar duty of the Legislature, at this time, to aid and improve that seminary, in which those who are to be the future guardians of the rights and liberties of their country may be endowed with science and virtue, to watch and preserve the sacred deposit; Be it therefore enacted by the General Assembly, that, instead of eighteen visiters or governors of the said College, there shall in future be five only, who shall be appointed by joint ballot of both houses of Assembly, annually, to enter on the duties of their office on the new year's day ensuing their appointment, having previously given assurance of fidelity to the commonwealth, before any Justice of the Peace; and to continue in office until those next appointed shall be qualified, but those who shall be first appointed, after the passing of this act, and all others appointed during the course of any year to fill up vacancies happening by death, resignation, or removal out of the commonwealth, shall enter on duty immediately on such appointment; any four of the said visiters may proceed to business; they shall chuse their own Rector, at their first meeting, in every year, and shall be deemed the lawful successors of the first trustees, and invested with all the rights, powers, and capacities given to them, save only so far as the same shall be abridged by this act, nor shall they be restrained in their legislation, by the royal prerogative, or the laws of the kingdom of England; of the canons or the constitution of the English Church, as enjoined in the said charter. There shall be three Chancellors, in like manner appointed by joint ballot of both houses, from among the Judges of the High Court of Chancery, or of the General Court, to enter on that office immediately on such appointment, and to continue therein so long as they remain in either of the said courts; any two of whom may proceed to business; to them shall belong solely the power of removing the Professors, for breach or neglect of duty, immorality, severity, contumacy, or other good cause, and the judiciary powers in all disputes, which

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shall arise on the statutes of the College, being called on for that purpose by the Rector, or by the corporation of President and Professors, a copy of their sentence of deprivation, being delivered to the sheriff of the county wherein the College is, he shall forthwith cause the Professor deprived to be ousted of his chambers, and other freehold appertaining to the said College, and the remaining Professors to be reseized thereof, in like manner and form, and subject, on failure to the like fines by the said Chancellors, as in cases of writs of habere facias seisinam issued from Courts of Record. But no person shall be capable of being both visiter and Chancellor at the same time; nor shall any Professor be capable of being at the same time either visiter or Chancellor. Instead of the President and six Professors, licensed by the said charter, and established by the former visiters, there shall be eight Professors, one of whom, shall also be appointed President, with an additional salary of one hundred pounds a year, before they enter on the execution of their office, they shall give assurance of fidelity to the commonwealth, before some justice of the Peace. These shall be deemed the lawful successors of the President and Professors appointed under the said charter, and shall have all their rights, powers and capabilities, not otherwise disposed of by this act; to them shall belong the ordinary government of the College, and administration of its revenues, taking the advice of the visiters on all matters of great concern. There shall, in like manner, be eight Professorships, to wit, one of moral philosophy, and the laws of nature and of nations, and of the fine arts; one of law and police; one of history, civil and ecclesiastical; one of mathematics; one of anatomy and medicine; one of natural philosophy and natural history; one of the ancient languages, oriental and northern; and one of modern languages. The said Professors shall likewise appoint, from time to time, a missionary, of approved veracity, to the several tribes of Indians, whose business shall be to investigate their laws, customs, religions, traditions, and more particularly their languages, constructing grammars thereof, as well as may be, and copious vocabularies, and, on oath to communicate, from time to time, to the said President and Professors the materials he collects, to be by them laid up and preserved in their library; for which trouble the said mis-

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sionary shall be allowed a salary at the discretion of the visiters, out of the revenues of the College. And forasmuch as the revenue, arising from the duties on skins and furs, and those on liquors, with which the said College was endowed, by several acts of General Assembly, is subject to great fluctuations, from circumstances unforseen, insomuch that no calculation of foresight can enable the said visiters or Professors to square thereto the expenditures of the said College, which being regular and permanent should depend on stable funds; Be it therefore enacted, that the revenue arising from the said duties, shall be henceforth transferred to the use of the public, to be applied towards supporting the contingent charges of government, and that, in lieu thereof, the said College shall be endowed with an impost of five pounds of tobacco, on every hogshead of tobacco, to be exported from this commonwealth, by land or by water, to be paid to the inspectors accounted for, on oath, to the said President and Professors on or before the 10th day of October, in every year, with an allowance of six per centum for their trouble; and if the said tobacco be not carried to any public ware-house, then the said impost shall be paid, collected and accounted for to the said President and Professors, by the same persons, at the same times, in and under the like manner, penalties and conditions, as prescribed by the laws, which shall be in force at the time, for collecting the duties imposed on exported tobacco, towards raising supplies of money for the public exigencies. And that this commonwealth may not be without so great an ornament, nor its youth such an help towards attaining astronomical science, as the mechanical representation, or model of the solar system, conceived and executed by that greatest of astronomers, David Ryttenhouse; Be it further enacted, that the visiters, first appointed under this act, and their successors, shall be authorized to engage the said David Ryttenhouse, on the part of this commonwealth, to make and erect in the said College of William and Mary, and for its use, one of the said models, to be called by the name of the Ryttenhouse, the cost and expence of making, transporting and erecting whereof shall, according to the agreement or allowance of the said visiters, be paid by the Treasurer of this commonwealth, on warrant from the Auditors.

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A BILL FOR ESTABLISHING A PUBLIC LIBRARY.

(CHAPTER LXXXI.)

SECTION I. Be it enacted by the General Assembly, that on the first day of January, in every year, there shall be paid out of the treasury the sum of two thousand pounds, to be laid out in such books and maps as may be proper to be preserved in a public library, and in defraying the expences necessary for the care and preservation thereof; which library shall be established at the town of Richmond.

SECT. II. The two houses of Assembly shall appoint three persons of learning and attention to literary matters, to be visiters of the said library, and shall remove them, and fill any vacancies, from time to time, as they shall think fit; which visiters shall have power to receive the annual sums beforementioned, and therewith to procure such books and maps as aforesaid, and shall superintend the preservation thereof. Whensoever a keeper shall be found necessary they shall appoint such keeper, from time to time, at their will, on such annual salary (not exceeding one hundred pounds) as they shall think reasonable.

SECT. III. If during the time of war the importation of books and maps shall be hazardous, or if the rate of exchange between this commonwealth and any state from which such articles are wanted, shall from any cause be such that they cannot be imported to such advantage as may be hoped at a future day, the visiters shall place the annual sums, as they become due, in the public loan office, if any there be, for the benefit of interest, or otherwise shall suffer them to remain in the treasury until fit occasions shall occur of employing them.

SECT. IV. It shall not be lawful for the said keeper, or the visiters themselves, or any other person to remove any book or map out of the said library, unless it be for the necessary repair thereof; but the same be made useful by indulging the researches of the learned and curious, within the said library, without fee or reward, and under such rules for preserving them safe and in good order and condition as the visiters shall constitute.

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SECT. V. The visiters shall annually settle their accounts with the Auditors and leave with them the vouchers for the expenditure of the monies put into their hands.

A BILL FOR ESTABLISHING RELIGIOUS FREEDOM.[1]

(CHAPTER LXXXII.)

SECTION I. Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested his supreme will that free it shall

[1] This bill was Jefferson's particular pride, and ranked in his mind with the Declaration of Independence. It was originally introduced to the Assembly June 13, 1779, and was promptly the subject of memorials, both *pro* and *con*, to that body. Evidently the majority of the members agreed with one of these memorials, which styled it a "diabolical scheme," for it was laid over from session to session till 1786, when, by the foolish attempt of the "state-church" party to obtain a general assessment, the Assembly re-acted, and passed this bill into law, after first partially substituting a clause of the Virginia Declaration of Rights in place of Jefferson's original wording. Jefferson, then in Paris, promptly had an edition printed with the title:

An Act for establishing Religious Freedom, | passed by the assembly of Virginia in the beginning | of the year 1786. [Paris: 1786.] 8vo, pp.4.

In the same year it was again printed in Paris as:

Acte de la République de Virginie, | qui établit la liberté de Religion. [Paris: Ph. D. Pierres, 1786.] 8vo, pp.4.

It was again printed as:

Republican Notes on Religion; And An Act Establishing Religious Freedom, passed in the Assembly of Virginia, in the year 1786. By Thomas Jefferson, Esquire, President of the United States. Danbury: Printed by Thomas Row. 1803. 8vo, pp. 11.

The Act was criticised by Pelatiah Webster in:

Considerations | on an | Act | of the | Legislature | of | Virginia, | entitled, | an act for the establishment of | Religious Freedom. | By a Citizen of Philadelphia. | Philadelphia: | Printed and sold by Robert Aitken, at Pope's-head, in | Market Street. | M.DCC. LXXXVI. 8vo, pp. 26.

As finally adopted it is in *Hening*, XII, 84. *Cf.* Jefferson's *Autobiography*, I. 62; and *Letters of Madison*, I, 208, 213.

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remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet choose not to propagate it by coercions on either, as was in his Almighty power to do, but to exalt it by its influence on reason alone; that the impious presumption of legislature and ruler, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time: That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness; and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependance on our religious opinions, any more than our opinions in physics or geometry; and therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust or emolument, unless he profess or renounce this or that religious opinion, is depriving him injudiciously of those privileges and advantages to which, in common with his fellow-citizens, he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminals who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that the opinions of men are not the

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object of civil government, nor under its jurisdiction; that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous falacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or suffer from his own; that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

SECT. II. We the General Assembly of Virginia do enact that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, or shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

SECT. III. And though we well know that this Assembly, elected by the people for their ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operations, such act will be an infringement of natural right.

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CORRESPONDENCE AND MISCELLANEOUS WRITINGS.

1779–1781.

TO GENERAL WASHINGTON. J. MSS.

WILLIAMSBURG, June 19th, 1779.

SIR,—I have the pleasure to enclose you the particulars of Colo. Clarke's success against St. Vincenne as stated in his letter but lately received, the messenger with his first letter having been killed.[1] I fear it will be impossible for Colo. Clarke to be so strengthened as to enable him to do what he desires. Indeed the express who brought this letter gives us reason to fear St. Vincenne is in danger from a large body of Indians collected to attack it and said when he came from Kaskaskias to be within 30 leagues of the place. I also enclose you a letter from Colo. Shelby stating the effect of his success against the seceding Cherokees and Chuccamogga. The damage done them was killing half a dozen, burning 11 Towns, 20,000 bushels of Corn collected probably to forward the expeditions which were to have been planned at the Council which was to meet Governor Hamilton at the mouth of Tenissee, and taking as many goods as sold for £25,000. I hope these two blows coming to-

[1] Dated April 29, 1779. It relates to George Rogers Clarke's famous western expedition, and is printed in the Randolph and Washington editions of Jefferson.

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gether and the depriving them of their head will in some measure effect the quiet of our frontiers this summer. We have intelligence also that Colo. Bowman from Kentucky is in the midst of the Shawnee county with 300 men & hope to hear a good account of him. The enclosed order being in its nature important and generally interesting, I think it proper to transmit it to you with the reasons supporting it. It will add much to our satisfaction to know it meets your approbation.[1]

I have the honor to be with every sentiment of private respect & public gratitude, Sir, your most obedient & most hbl. servant.

P. S. The distance of our northern and western counties from the scene of Southern service and the necessity of strengthening our Western quarter have induced the Council to direct the new levies from the Coun ties of Yohogania, Ohio, Monongalia, Frederick Hampshire, Berkley, Rockingham and Greenbrier amounting to somewhat less than 300 men to enter into the 9th Regiment at Pittsburg. The aid they may give there will be so immediate & important and what they could do to the Southward would be so late as I hope will apologise for their interference.

TO THE PRESIDENT OF CONGRESS. C. C.

(JOHN JAY.)

WILLIAMSBURGH, June 19. 1779.

SIR,—Our delegates by the last post informed us that we might now obtain blank letters of marque for want of which our people have long & exceedingly suf-

[1] Proceedings of Council in case of Governor Hamilton, *cf.* p. 246.

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fered. I have taken the liberty therefore of desiring them to apply for fifty, & transmit them by a safe conveyance.

The inclosed order being in it's nature important and generally interesting, I thought it my duty to lay it before Congress as early as possible, with the reasons supporting it; nothing doubting but it will meet with their approbation; it's justice seems to have been confirmed by the general sense of the people here.

Before the receipt of your letter desiring a state to be made out of the ravages & enormities; unjustifiable by the usage of civilized nations committed by the enemy on their late invasion near Portsmouth, I had taken measures for the same purpose meaning to transmit them to you. They are not yet returned to me. I have given the same orders with respect to their still later proceedings in the county of Northumberland.

Our trade has never been so distressed since the time of Lord Dunmore as it is at present by a parcel of trifling privateers under the countenance of two or three larger vessels who keep our little naval force from doing anything. The uniform train of events which during the whole course of this war we are to suppose has rendered it improper that the American fleet or any part of it should ever come to relieve or countenance the trade of certain places, while the same train of events has as uniformly rendered it proper to confine them to the protection of certain other parts of the continent is a lamentable arrange-

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ment of fortune for us. The same ill luck has attended us as to the disposition of the prizes taken by our navy, which tho' sometimes taken just off our capes, it has always been expedient to carry elsewhere. A British prize would be a more rare phenomenon here than a comet, because the one has been seen, but the other never was. * * *

PROCLAMATION CONCERNING ESCHEATS. J. MSS.

WILLIAMSBURG, July 1, 1779.

By his Excellency Thomas Jefferson, esquire, Governor or Chief Magistrate of the Commonwealth of Virginia.

A Proclamation.

Whereas the General Assembly, by their act passed at their last session, entitled "an act concerning escheats and forfeitures from British Subjects" did declare "that (1) all persons subjects of his Britannick majesty, who on the nineteenth day of April in the year 1775, when hostilities were commenced at *Lexington*, between the United States of America, and the other parts of the British empire, were resident, or following their vocations in any part of the world other than the said United States, and have not since either entered into public employment of the said states, or joined the same, and by overt act adhered to them; (2) all such subjects, inhabitants of the said United States, as were out of the said States on the same day and have since by overt act adhered to the enemies of the said states; and (3) all inhabitants of the said States, who after the same day, and before the commencement of the act of General Assembly in tituled, Act declaring what shall be treason,' departed from the said States, and joined the Subjects of his Britannick Majesty of their own free will; or (4) who by any County Court, within this Commonwealth were

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declared to be British Subjects within the meaning and operation of the resolution of the General Assembly, of the 19th day of December, 1776, for enforcing the Statute Staple, should be deemed British Subjects," and by their resolution of the twenty sixth day of the last month, they " required that all the persons so described, and now resident within this Commonwealth should be banished from the same, and the proper measures should be taken to prevent their return, as also to exclude thereout all others so described, and not now resident within this commonwealth " I have therefore thought fit, by and with the advice of the Council of State, to issue this my proclamation, hereby strictly charging and commanding all persons coming under any one of the descriptions in the said Act, and now being within this Commonwealth, to be, and appear before me in Council at Williamsburg, on or before the seventeenth day of August in this present year, in readiness to depart the Commonwealth in such manner as shall then be prescribed to them, as they will answer the contrary at their utmost peril: And I do moreover charge and enjoin all officers civil and military, and all other the good citizens of this Commonwealth, to apprehend and carry securely to the commanding officer of the militia of some county within this Commonwealth, all such persons, whom after the said day, they shall find lurking or being therein: And the commanding officers of the several counties are in like manner charged and required to receive the said persons, and all others so described, whom by the strictest diligence they shall be able to discover and take, to convey them in safe custody to the public jail in the city of Williamsburg, and to make report of such their proceedings to me. And I do further prohibit all persons so described from entering into this Commonwealth during the continuance of the present war with their prince, under colour of any commission, passport, licence, or other pretence whatsoever; and do publish and make known to such of them as shall presume to violate this prohibition, that they shall be deemed and dealt with as Spies, wheresoever they be taken.

Given at Williamsburg on the first day of July, in the Year of our Lord One thousand, seven hundred and seventy nine.

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TO GENERAL BARON DE RIEDESEL.[1]

FORREST, July 4, 1779.

SIR,—Your kind letter of June 19 I received on the 2d inst. It is now some time since Colo. Bland wrote for leave to grant Permits to capt. Bartling & Lt. Campbell to come to the Argyle flag. Leave was immediately given by letter to Col. Bland. Sometime after I received another letter from him, accompanied with one from General Phillips informing me that Lt. Campbell was come as far as Richmond, & waited for a permit to proceed. A permit was instantly made out and dispatched. Capt. Bartling was not mentioned on that occasion & therefore no permit was made out for him. The 3d inst. was fixed for Lt. Campbell to be at the flag to do his business, and it was only on the day before that your letter came to me by post. I shall instantly write to capt. Bartling giving him license to proceed, if his business remains still to be done, by a conveyance which occurs tomorrow. I thought it necessary to give you this detail of circumstances that any delays which may happen might be ascribed to those accidents which may have caused them.

I thank you for your kind congratulations; tho' condolations would be better suited to the occasion not only on account of the labours of the office to which I am called, and its withdrawing me from retirement, but also the loss of the agreeable society I

[1] From the original in the possession of Dr. Thomas Addis Emmet, of New York. Riedesel commanded the Hessians in Burgoyne's army, and was now a "convention" prisoner at Charlottesville.

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have left of which Mad'me de Riedesel and yourself were an important part. Mrs. Jefferson in this particular sympathizes with me, and especially on her separation from Mad'me de Riedesel. We are told you set out for the Berkely springs about the middle of month. We fear that this excursion, necessary for your amusement to diversify the scenes of discomfort, may deprive us of the pleasure of seeing you when we come to Monticello the last of this month. We shall stay there about a month. Mrs. Jefferson joins me in compliments to yourself & Mad'me de Riedesel, I shall be able to execute her commission as to the spoons and bring them up with me.

TO GENERAL WASHINGTON. W. MSS.

WMSBURG, July 17, 1779.

SIR,—I some time ago enclosed to you a printed Copy of an order of Council, by which Governor Hamilton was to be confined in Irons in close Jail. This has occasioned a letter from General Phillips of which the inclosed is a Copy. The General seems to suppose that a prisoner on capitulation cannot be put into close confinement tho' his Capitulation shall not have provided against it. My idea was that all persons taken in war were to be deemed prisoners of war. That those who surrender on capitulation (or convention) are prisoners of war also, subject to the same treatment with those who surrender at discretion, except only so far as the terms of their capitulation or convention shall have guarded them. In the

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Capitulation of Governor Hamilton (a Copy of which I inclose) no stipulation is made as to the treatment of himself or those taken with him. The Governor, indeed when he signs, adds a flourish of reasons inducing him to capitulate, one of which is the generosity of his Enemy. Generosity on a large and comprehensive Scale seems to dictate the making a signal example of this gentleman; but waiving that, these are only private motives inducing him to surrender, and do not enter into the Contract of Colonel Clarke. I have the highest idea of the sacredness of those Contracts which take place between nation and nation at war, and would be the last on earth who should do anything in violation of them. I can find nothing in those Books usually recurred to as testimonials of the Laws & usages of nature and nations which convicts the opinions, I have above expressed, of error. Yet there may be such an usage as General Phillips seems to suppose, tho' not taken notice of by these writers. I am obliged to trouble your Excellency on this occasion, by asking of you information on this point. There is no other person whose decision will so authoritatively decide this point in the public mind, and none with which I am disposed so implicitly to comply. If you shall be of opinion that the bare existence of a Capitulation in the case of Governor Hamilton privileges him from confinement, tho' there be no article to that Effect in the capitulation, justice shall most assuredly be done him. The importance of this question in a public view, & my own anxiety under a charge

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of violation of national faith by the Executive of this Commonwealth will I hope apologise for my adding this to the many, many troubles with which I know you to be burthened. I have the honor to be with the most profound respect & esteem

Yr Excellency's mo obedt & mo hble Servt.

P. S. I have just received a Letter from Colo. Bland containing information of numerous desertions from the Convention Troops (not less than 400 in the last fortnight). He thinks he has reason to believe it is with the connivance of some of their officers. Some of these have been taken, all of them going northwardly. They had armed themselves with forged passports, and with Certificates of having taken the oath of fidelity to the State; some of them forged, others really given by weak magistrates. I mention this to your Excellency as perhaps it may be in your power to have such of them intercepted as shall be passing through Pennsylvania & Jersey.

Your letter inclosing the opinion of the board of officers in the case between Allison & Lee is come safe to hand after a long passage. It shall be answered by next post.

TO THE GOVERNOR OF CANADA. V. S. A.

(SIR GUY CARLETON.)

WMSBURG, July 22d, 1779.

SIR,—Your letter on the subject of Lieutenant Governor Hamilton's confinement came safely to hand. I shall with great cheerfulness explain to you the

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reasons on which the advice of Council was founded, since after the satisfaction of doing what is right, the greatest is that of having what we do approved by those whose opinions deserve esteem.

We think ourselves justified in Governor Hamilton's strict confinement on the general principle of National retaliation. To state to you the particular facts of British cruelty to American prisoners, would be to give a melancholy history from the capture of Colo. Ethan Allen, at the beginning of the war to the present day, a history which I will avoid, as equally disagreeable to you and to me. I with pleasure do you the justice to say that I believe these facts to be very many unknown to you, as Canada has been the only scene of your service in America, and, in that quarter, we have reason to believe that Sir Guy Carleton, and the three officers commanding there, have treated our prisoners (since the instance of Colo. Allen) with considerable lenity. What has been done in England, and what in New York & Philadelphia, you are probably uninformed; as it would hardly be made the subject of epistolary correspondence. I will only observe to you, Sir, that the confinement and treatment of our officers, soldiers and seamen, have been so rigorous and cruel, as that a very great portion of the whole of those captured in the course of this war, & carried to Philadelphia while in possession of the British army and to New York, have perished miserably from that cause only; and that this fact is as well established with us, as any historical fact which has happened in the course of the war. A

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Gentleman of this Commonwealth in public office, and of known and established character, who was taken on the sea, carried to New York and exchanged, has given us lately a particular information of the treatment of our prisoners there. Officers taken by land, it seems, are permitted to go on parole within certain limits of Long Island, till suggestions shall be made to their prejudice by some Tory refugee, or other equally worthless person, when they are hurried to the Provot in New York, without enquiring "whether they be founded upon positive facts, be matter of hearsay, or taken from the reports of interested men." The example of enquiring into the truth of charges of this nature according to legal principles of evidence, has surely not been set us by our enemies. We enquired what these Provots were and were told they were the common miserable jails, built for the confinement of malefactors. Officers and men taken by sea were kept in prison ships infe[sted] with [ ] ught on by the crowd [*Parts of one line and all of another at bottom of the page lacking*] from five to ten a day. When therefore we are desired to the possible consequence of treating prisoners with rigour, I need only ask when did those rigours begin? not with us assuredly. I think you, Sir, who have had as good opportunities as any British officer of learning in what manner we treat those whom the fortune of war has put in our hands can clear us from the charge of rigour as far as your knowledge or information has extended. I can assert that Governor Hamilton's is the first instance which has occurred in my own coun-

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try, and, if there has been another in any of the United States, it is unknown to me; these instances must have been extremely rare, if they have ever existed at all, or they could not have been altogether unheard of by me, when a uniform exercise of kindness to prisoners on our part has been returned by as uniform severity on the part of our enemies. You must excuse me for saying it is high time, by other lessons, to teach respect to the dictates of humanity, in such a case retaliation becomes an act of humanity.

But suppose, Sir, we were willing still longer to decline the drudgery of general retaliation, yet Governor Hamilton's conduct has been such as to call for exemplary punishment on him personally. In saying this I have not so much in view his particular cruelties to our Citizens, prisoners with him (which tho' they have been great, were of necessity confined to a small scale) as the general nature of the service he undertook at Detroit and the extensive exercise of cruelties which they involved. Those who act together in war are answerable for each other. No distinction can be made between principal and ally by those against whom the war is waged. He who employs another to do a deed makes the deed his own. If he calls in the hand of the assassin or murderer, himself becomes the assassin or murderer. The known rule of warfare of the Indian Savages is an indiscriminate butchery of men, women & children. These savages, under this well known character, are employed by the British Nation as allies in the war against the Americans. Governor Hamilton undertakes to be the con-

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ductor of the war. In the execution of that undertaking, he associates small parties of the whites under his immediate command with large parties of the savages, and sends them to act, sometimes jointly, and sometimes separately, not against our forts or Armies in the Field, but the farming settlements on our frontiers. Governor Hamilton is himself the butcher of men, women & children. I will not say to what length the fair rules of war would extend the right of punishment against him; but I am sure that confinement under its strictest circumstances, for Indian devastation and massacre must be deemed lenity. I apprehend you had not sufficiently adverted to the expression in the advice of the Council when you suppose the proclamation there alluded to, to be the one addressed to the Inhabitants of the Illinois afterwards printed in the public papers & to be affirmed to contain 'denun

[*Two lines at bottom of page gone.*] ians' Proclamation, there alluded to, contained nothing more than an invitation to our officers and soldiers to join British arms against those whom he is pleased to call Rebels and Traitors. In order to introduce these among our people, they were put into the hands of the Indians; and in every house, where they murdered or carried away the family, they left one of these proclamations, some of them were found sticking on the breasts of the persons murdered, one under the hand & seal of Governor Hamilton came to our hands. The Indians being the bearers of proclamations under the hand

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and seal of Governor Hamilton (no matter what was the subject of them) there can be no doubt they were acting under his direction, and, as including this proof, the fact was cited in the advice of the Council. But if you will be so good as to recur to the address of the Illinois, which you refer to, you will find that, tho' it does not in express terms threaten vengeance, blood & massacre, yet it proves that the Governor had made for us the most ample provision of all these Calamities. He there gives in detail the horrid catalogue of savage nations, extending from South to North whom he had leagued with himself to wage combined war on our frontiers; and it is well known that that war would of course be made up of blood and general Massacres of men, women and children. Other papers of Governor Hamilton's have come to our hands containing instructions to officers going out with scalping parties of Indians & Whites, and proving that kind of war was waged under his express orders; further proofs in abundance might be adduced, but I suppose the fact is too notorious to need them.

Your letter seems to admit an inference that, whatever may have been the general conduct of our enemies towards their prisoners, or whatever the personal conduct of Governor Hamilton, yet, as a prisoner by capitulation, you consider him as privileged from strict confinement. I do not pretend to an intimate knowledge of this subject. My idea is that the term "prisoners of war" is a generic one, the specification of which is—1st Prisoner at discretion;

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& 2d prisoners on convention or capitulation. Thus in the debate of the house of Commons of the 27th November last, on the address, the minister, speaking of General Burgoyne (and in his presence) says he is "a prisoner," and General Burgoyne calls himself "a prisoner under the terms of the Convention of Saratoga," intimating that tho' a prisoner, he is a prisoner of a particular species entitled to certain terms. The treatment of the first class ought to be such as to be approved by the usage of polished nations; gentle and humain unless a contrary conduct in an enemy or individual, render a stricter treatment necessary. The prisoners of the 2d Class have nothing to exempt them from a like treatment with those of the first except so far as they shall have been able to make better terms by articles of Capitulation. So far then as these shall have provided for an exemption from strict treatment so prisoners on Capitulation have a right to be distinguished from those at discretion. [*Two lines at bottom of the page gone.*] certain causes antecedent thereto, tho' such instances might be produced, from English history too, and in one case where the King himself commanded in person. Marshal Boufflers after the taking of the castle Namur was arrested and detained prisoner of war by King William tho' by an article of capitulation it was stipulated that the officers and soldiers of the garrison in general, and Marshal Boufflers by name should be at Liberty. However we waive reasoning on this head because no article in the Capitulation of Governor Hamilton is violated by his confinement. Perhaps not having seen the

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Capitulation, you were led to suppose it a thing of course that being able to obtain terms of surrender, they would first provide for their own treatment. I enclose you a copy of the Capitulation, by which you will see that 2d Article declares them prisoners of war; and nothing is said as to the treatment they were to be entitled to. When Governor Hamilton signs indeed he adds a flourish, containing the motives inducing him to capitulate, one of which was confidence in a generous enemy. He should have reflected that generosity on a large scale would take side against him. However these were only his private motives and did not enter into the contract with Colo. Clarke. Being prisoners of war then, with only such privileges as their Capitulation had provided, and that having provided nothing on the subject of their treatment, they are liable to be treated as other prisoners. We have not extended our order, as we might justifiably have done to the whole of this corps. Governor Hamilton & Capn. Lamothe alone, as leading offenders, are in confinement. The other officers and men are treated as if they had been taken in justifiable war; the officers being at large on their parole, and the men also having their liberty to a certain extent. Dejean was not included in the Capitulation, being taken 8 days after on the Wabache 150 miles from St. Vincennes.

I hope, Sir, that being made more fully acquainted with the facts on which the advice of Council was grounded, and exercising your own good sense in cool and candid deliberation on these facts, and the

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consequences deducible from them according to the usages and sentiments of civilized nations, you will see the transaction in a very different light from that in which it appeared at the time of writing your Letter, and ascribe the advice of the Council, not to want of attention to the sacred nature of public conventions, of which I hope we shall never, in any circumstances, lose sight, but to a desire of stopping the effusion of ye unoffending blood of women and children, and the unjustifiable severities exercised on our captive officers and soldiers in general, by proper severities on our part. I have the honor to be with much personal respect, Sir, your most obt & most hmble Servt.

TO COL. WILLIAM FLEMING.[1]

ALBEMARLE, Aug. 7, 1779.

SIR,—The enclosed order will explain to you the general plan adopted for regimenting, officering & stationing the two Western battalions. We are in hopes you will so far proceed in concert with the other commissioners as that the chain of posts to be recommended may form a complete Western defence, leaving no chasm in the middle. We wish you, when you report the stations proposed, to advise us also to what particular station it will be best for the men of each county respectively to go. As it will not be long before the men ought to be raised according to the directions of the law, and it will be

[1] From the original in the possession of Dr. Thomas Addis Emmet, of New York.

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proper for the Executive to pay immediate attention to the procuring arms and camp utensils for them. I should therefore be glad if you will be so good as to lay before them a state of the arms in your possession or at any other convenient station: also for your opinion what proportion of the men should be furnished with rifles, where rifles are to be had and on what terms.

TO THE COUNTY LIEUTENANT OF HAMPSHIRE.[1]

August 17, 1779.

SIR,—You are desired to call together your Field Officers and in conjunction with them to recommend to the Executive a Captain and Lieutenant to take command in one of the battalions to be raised for the defence of the Western frontier, under an act of the late Assembly entitled an act for raising a body of troops for the defence of the Commonwealth. The men to be raised in your County under the same act, and the Officers to be recommended by you, are to hold themselves in readiness on the shortest warning to proceed to such Western rendezvous as shall be notified to them by the Executive or the Field Officer who shall be directed to take command of them.

Be pleased to transmit your recommendations to the Executive in Williamsburgh by the earliest opportunity you can, and also to report to them from time to time your progress in raising your men.

TO THE PRESIDENT OF CONGRESS. C. C.
(JOHN JAY.)

WILLIAMSBURG, Sept. 25, 1779.

SIR,—The various calamities which during the present year have befallen our crops of wheat, have reduced them so very low as to leave us little more than seed

[1] From a copy courteously furnished by Hon. Elliot Danforth, of Albany, N.Y.

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for the ensuing year, were it to be solely applied to that purpose. This country is therefore unable to furnish the necessary supplies of flour for the convention troops, without lessening, by so much as should be purchased, the sowing for another crop. I am therefore to submit to you, Sir, the expediency of ordering your Commissary general to send supplies of this article from the head of Elk or wherever else you may think best, to Richmond. Colo. Aylett informs us they will require about ten thousand barrels for a year's supply. We hope there will be a plenty of forage and of all other articles, necessary for their subsistence, raised within this State.

TO GENERAL WASHINGTON. J. MSS.

WILLIAMSBURG, Oct. 1, 1779.

SIR,—On receipt of your letter of August 6th. during my absence the Council had the irons taken off the prisoners of war. When your advice was asked we meant it should decide with us; and upon my return to Williamsburg the matter was taken up and the enclosed advice given. A parole was formed of which the enclosed is a copy and tendered to the prisoners. They objected to that part of it which restrained them from *saying* anything to the prejudice of the United States and insisted on "freedom of speech." They were in consequence remanded to their confinement in the jail which must be considered as a voluntary one until they can determine with

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themselves to be inoffensive in word as well as deed. A flag sails hence to-morrow to New York to negotiate the exchange of some prisoners. By her I have written to Genl. Phillips on this subject & enclosed to him copies of the within; intending it as an answer to a letter I received from him on the subject of Governor Hamilton. I have the honor to be Sir.

TO GENERAL WASHINGTON. J. MSS.

WILLIAMSBURG, Oct. 2, 1779.

SIR,—Just as the letter accompanying this was going off Col. Mathews arrived on parole from New York by the way of headquarters bringing your Excellency's letter on his subject, with that of the British comissary of prisoners. The subject is of great importance & I must therefore reserve myself to answer after further consideration. Were I to speak from present impressions I should say it was happy for Governor Hamilton that a final determination of his fate was formed before this new information. As the enemy have released Capt. Willing from his irons the Executive of this State will be induced perhaps not to alter their former opinion. But it is impossible they can be serious in attempting to bully us in this manner. We have too many of their subjects in our power & too much iron to clothe them with & I will add too much resolution to avail ourselves of both to fear their pretended retaliation. However I will do myself the honor of forwarding to your Excellency the ultimate result of council on this subject.

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In consequence of the information in the letter from the British commissary of prisoners that no officers of the Virginia line should be exchanged till Governor Hamiltons affair should be settled we have stopped our flag which was just hoisting anchor with a load of privates for N. York. I must therefore ask the favor of your Excellency to forward the enclosed by flag when an opportunity offers as I suppose Genl. Phillips will be in N. York before it reaches you. I have the honor to be Sir with the greatest esteem.

TO GENERAL WASHINGTON. J. MSS.

IN COUNCIL, Oct. 8, 1779.

SIR,—In mine of the second of the present month written on the instant of Colo. Mathews delivery of your letter I informed you what had been done on the subject of Governor Hamilton & his companions previous to that moment. I now enclose you an advice of Council in consequence of the letter you were pleased to enclose me from the British commissary of prisoners with one from Lord Rawdon also a copy of my letter to Colo. Mathews enclosing also the papers therein named. The advice of Council to allow the enlargement of prisoners on their giving a proper parole has not been recalled nor will be I suppose unless something on the part of the enemy should render it necessary. I rather expect however that they will see it their interest to discontinue this kind of conduct. I am afraid I shall hereafter perhaps be obliged to give your Excellency some trouble

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in aiding me to obtain information of the future usage of our prisoners. I shall give immediate orders for having in readiness every engine which the Enemy have contrived for the destruction of our unhappy citizens captivated by them. The presentiment of these operations is shocking beyond expression. I pray heaven to avert them: but nothing in this world will do it but a proper conduct in the Enemy. In every event I shall resign myself to the hard necessity under which I shall act.

TO COLONEL GEORGE MATHEWS.[1] J. MSS.

IN COUNCIL, Oct. 8, 1779.

SIR,—The proceedings respecting Governor Hamilton & his companions previous to your arrival here, you are acquainted with. For your more precise information, I enclose you the advice of Council of June the 16th, of that of August the 28th, another of Sep. 19th, of the parole tendered them the 1st instant and of Governor Hamilton's letter of the same day stating his objections in which he persevered: from that time his confinement has become a voluntary one. You delivered us your letters the next day when the post being just setting out much business prevented the Council from taking them into consideration. They have this day attended to them and found their resolution expressed in the enclosed advice bearing date this day. It gives us great pain

[1] An American prisoner from New York on parole.

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that any of our countrymen should be cut off from the society of their friends & tenderest connections while it seems as if it was in our power to administer relief. But we trust to their good sense for discerning & their spirit for bearing up against the fallacy of this appearance. Governor Hamilton and his companions were imprisoned & ironed. 1st. In retaliation for cruel treatment of our captive citizens by the enemy in general. 2d. For the barbarous species of warfare which himself & his savage allies carried on in our western frontier. 3d. For particular acts of barbarity of which he himself was personally guilty to some of our citizens in his power. Any one of these charges was sufficient to justify the measures we took. Of the truth of the first yourselves are witnesses. Your situation indeed seems to have been better since you were sent to New York, but reflect on what you suffered before that & knew others of your countrymen to suffer & what you know is now suffered by that more unhappy part of them who are still confined on board the prison ships of the enemy. Proofs of the second charge we have under Hamilton's own hand: And of the third as sacred assurances as human testimony is capable of giving. Humane conduct on our part was found to produce no effect: the contrary therefore was to be tried: If it produces a proper lenity to our citizens in captivity it will have the effect we meant: if it does not we shall return a severity as terrible as universal. If the causes of our rigour against Hamilton were founded in truth that rigour was just & would not give

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right to the Enemy to commence any new hostilities on their part; and all such new severities are to be considered, not as retaliation but as original and unprovoked. If those causes were not founded in truth they should have denied them. If declining the tribunal of truth & reason they chuse to pervert this into a contest of cruelty and destruction we will contend with them in that line, & measure out misery to those in our power in that multiplied proportion which the advantage of superior numbers enables us to do. We shall think it our particular duty after the information we gather from the papers which have been laid before us to pay very constant attention to your situation & that of your fellow prisoners. We hope that the prudence of the Enemy will be your protection from injury, & we are assured that your regard for the honour of your country would not permit you to wish we should suffer ourselves to be bullied into an acquiescence under every insult & cruelty they may chuse to practice, & a fear to retaliate lest you should be made to experience additional sufferings. Their officers & soldiers in our hands are pledges for your safety: we are determined to use them as such. Iron will be retaliated by iron but a great multiplication on distinguished objects: prison ships by prison ships, and like for like in general. I do not mean by this to cover any officer who has acted or shall act improperly. They say Capt. Willing was guilty of great cruelties at the Natches: if so they do right in punishing him. I would use any powers I have for the punishment

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of any officer of our own who should be guilty of excesses unjustifiable under the usages of civilized nations. However I do not find myself obliged to believe the charge against Capt. Willing to be true on the affirmation of the British commissary because in the next breath he affirms no cruelties have as yet been inflicted on him. Capt. Willing has been in irons.

I beg you to be assured there is nothing consistent with the honor of your country which we shall not at all times be ready to do for the relief of yourself & companions in captivity. We know that ardent spirit and hatred for tyranny which brought you into your present situation will enable you to bear up against it with the firmness which has distinguished you as a soldier, and to look forward with pleasure to the day when events shall take place against which the wounded spirits of your Enemies will find no comfort even from reflections on the most refined of the cruelties with which they have glutted themselves.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL, Oct. 22d, 1779.

SIR,—Since the date of my former letter to you, I have recd. the inclosed resolutions of Congress containing a requisition of additional supplies of money. The General Assembly in considering this subject will naturally cast their eyes on the funds already provided for the Supply of their public treasury. As a principal branch of these was in some degree under the care and direction of the executive, I mean the proceeds of the estates of

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British subjects, it becomes my duty to guard the assembly against relying in their calculations for any great & immediate supplies from hence. Facts have come to our notice which give great reason to believe that the transverse & other pleadings justly allowed by the law for saving the rights of those who have real or probable appearance of right is perverted to frustrate or delay its effects, by being put in on grounds either frivolous or false and by that means throwing the subject into a course of legal contestation which under the load of business now on the docquet of the general Court, may not be terminated in the present age. In one instance we are certified by the clerk of the general Court that the estate is claimed by the steward; tho' this very man undertook to act as Commissioner of the estate under the sequestration law by our appointment, and has himself personally rendered annual accounts to us of the proceeds of the estate as the estate of a British subject. Yet his claim palpably false as it is, in order to obtain the ceremony of being adjudged so, is to go through all the formalities of regular litigation before the estate can be exposed to sale. Perhaps the aids expected from this law might still be obtained however, and as perfect justice done to every individual by a legislative provision for determining these pleadings in a speedy way. I thought it my duty to guard the general assembly against any deception in their expectations from these funds, that no disappointments may accrue in the measures they shall be pleased to adopt.

While on the subject of Continental demands for supplies from this State I am to inform you, sir, of an unfortunate delay in the settlement of the Continental accounts. Immediately on the rising of the general assembly the Executive proceeded without intermission to put into a course of execution the several things made incumbent on them, it was the 17th July before, according to their arrangements, they could proceed to appoint a Commissioner to settle the Continental account. They then appointed a gentleman fully qualified in every point of view to discharge this duty perfectly. His first letter, dated three days after the appointment, gave reason to hope he would undertake the charge. Ill health however and other subsequent circumstances obliged him to decline, and the letter notifying that did not come to hand till

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the 10th of the last month. Since this no person has been found competent to the business & willing to undertake it. We are in hopes that the more extensive acquaintance of the members of General assembly may enable them to appoint a person equal to this very difficult business.

A Book of military institutions written by Major General Steuben and recommended for general use by Congress has been transmitted to me. I take the liberty of depositing it with the general assembly as on future revisions of their militia laws they may be able perhaps to extract some useful matters from it. Or it may be thought worth printing & dispersing among the officers of ye militia.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL, Oct. 29, 1779.

SIR,—The Executive in the Month of March 1778, in order to secure the acquisition & proper choice of a supply of Arms, Ordnance & Military implements sent a Mr. Le Mair of the Kingdom of France their Agent express for that purpose to Europe. He executed his commission with a zeal and assiduity which we have rarely met with, having traversed for fourteen months those parts of Europe backwards & forwards where there was a hope of getting the articles wanted, and after eighteen months' absence returned himself in the last of three Vessels which he charged with ordnance and other necessities. His reasonable expenses we mean to pay and were about making him a proper pecuniary compensation for his time and great labour but he prays rather to be rewarded with military rank unattended by either pay or command; expecting to reap greater benefit from this in his own Country to which he is about to return. The Executive apprehending they have no authority to grant brevet commissions, refer to the general assembly the expedience of authorizing them to give to this gentleman a Lieutenant Colonel's commission by way of brevet. They shall not indeed then think

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themselves discharged from making him some pecuniary compensation tho' a much smaller may be given than they had before proposed.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL, Oct. 30th, 1779.

SIR,—In pursuance of a resolution of the last session of General assembly the Executive proceeded to form a Contract with Messrs. Penet Windel & Co. for the establishment of a manufactury of fire arms & foundery of ordnance on James river and for extending navigation through its falls. The several preliminary papers which passed between them are now transmitted to the general assembly that they may be enabled to judge of the obstacles the executive had to encounter, and to see the reasons explained which led them to the several conclusions. These articles also, as ultimately concluded, accompany this, together with a subsequent letter from Mr. Penet and memorial from Mr. Savarit desiring some alterations in two of the articles.

The several objects of this contract must be admitted of the last importance: The depending on the transportation of arms across an element on which our enemies have reigned, for the defence of our own country, has been already found insecure & distressing. The endeavours of five years aided with some internal manufacturers have not yet found a tolerable supply of arms. To make them within ourselves then as well as the other implements of war, is as necessary as to make our bread within ourselves. The present contract seems really to afford a promising appearance of future supply. Should these articles meet with ratification from the general assembly, I must still inform them that obstacles are likely to arise, of a very perplexing nature, from an unlucky connection of the public with a certain Mr. Ballendine who has entangled himself into every part of the subjects of this contract. Some of his rights are real; some only pretended. Unless they can be cleared away by legislation in a

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speedy mode, liberal compensation being first allowed him for such of them as shall be found just, the length of time which would be required to follow him through Courts of Justice in the ordinary course of proceedings, will defeat every hope which might be entertained from this Contract. The duty imposed upon the executive by the resolution of assembly led them necessarily to an investigation of this man's rights & pretensions. That the assembly may have proper lights to conduct their enquiries I will analyse his claims as they have appeared to us. They refer to three several subjects, which I will endeavour to keep distinct, to avoid that confusion they might otherwise throw on one another. 1. To the furnace in Buckingham. 2. To the Foundry at Westham. 3. To the construction of a navigable Canal at the falls of James river.

1. Mr. Ballendine with a partner Mr. Reveley received by order from the assembly £5000 in the year 1776 for the purpose of erecting a furnace in Buckingham & stipulated to repay it in pigiron at seven pounds ten shillings the ton, which in fact amounted to a contract to pay the public 666⅔ tons of pigiron. In December 1777 he received a further sum of £2500. In May 1778 he petitioned the assembly to release him from the obligation of paying his Debt in iron at £7.10/ the ton, and to take it at the Market price at the time of delivery of the iron, the assembly agreed that he should be allowed more than 7,10. but not the market price at the *time of delivery*, thus signifying their sense that there was some intermediate ground on which they meant to take their stand, but not pointing out what that was. This led us to suppose that the Market price of iron at the time of the *paiment of the money* to Ballendine might be what the assembly had probably in view. On settlement of his several accounts with the Commissioners whom we appointed according to the resolution of assembly for that purpose & whose report is transmitted herewith, there arose on one of them a balance in his favor for part of $\frac{T}{3}\ \frac{C}{10}\ \frac{qr}{2}$ of pigiron delivered. The Commissioners had extended it in money at £30. the ton, and transferred the balance of £42–5 which that produced to the Credit of his account for the £5000. or 666⅔ tons of iron. We think they should have credited so much of the $\frac{T}{3}\ \frac{C}{10}\ \frac{qr}{2}$ of iron at £30 as would have bal-

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anced that account and transferred the residue, in iron, to the credit of his debt due in iron. This error would have been too trivial to have noted to you Sir, but as it tended to induce a false principle into the account, & to prevent us from informing you precisely that of the 666⅔ tons due to the public for the £5000. there has been paid only $\frac{T.}{13}\frac{C.}{}$, and nothing paid towards discharging the additional £2500. To secure these balances the lands in which the money was invested were conveyed to the trustees themselves, but under an implied trust, that on payment of the debt conveyances should be made to Ballendine and Reveley: so that it is apprehended that they amount in fact to nothing more than mortgages. There is little hope that the balance will ever be paid; an opportunity now occurs not only of making the securities produce to the public the real worth of what was advanced on them, but also of producing it in arms & implements of war, the very articles originally proposed to be obtained by it, and which of all others are most immediately essential to the public safety. But a bill for foreclosing the trust to pass through the usual forms of proceedings in a Court of Chancery will hardly bring us relief till I hope we shall not need it.

2. The general assembly in May 1776 having determined to erect a foundry at Westham for casting ordnance appointed Commissioners for that purpose. For the sum of £242.10, which they paid Mr. Ballendine they purchased from him for situating the foundry three acres & an half of land adjacent to a Canal he was opening from Westham, and a right to deduce water from the Canal for turning a boring mill & other works necessary for finishing the Cannon—They were also to have free navigation down the canal to the foundry on contributing one moeity to the repairs of that part of the Canal, after it should have been once completed, as he bound himself to compleat it. They erected their foundery and found it necessary to make advances of money to Ballendine to enable him to complete his Canal & dam on which alone they depended for water. The balance due the Commonwealth on these advances is £2051- 2- 5½ as appears by one of the accounts transmitted herewith: for securing which payments a mortgage had been taken on 46½ acres of land the whole of the real property of the said Ballendine at that place, so that the pub-

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lic possessions & interests at this place are the 3½ acres of land with the foundry on it, a right to draw off water for working their machines for completing the Cannon, a common in the navigation, paying one half the expense of keeping that part of the Canal in repair, & a mortgage on 46½ acres of land for securing the payment of £2051- 2- 5½. But for the state of Mr. Ballendines Dam & Canal & the prospect of obtaining water as long as he is to be depended on for it, I beg leave to refer you to the report of the same commissioners.

3. The extending navigation from Westham to Richmond, besides its other very general importance, being extremely requisite to promote the success of the proposed manufactory by reducing the difficulty & expence attending the transportation of the bulky articles of Coal, wood & other things necessary to be expended on it, and its own very weighty produce, we were led to inquire by what means Mr. Ballendine had got foothold there and on what pretensions he founds a right of constructing the navigable canal. In 1764 the assembly passed an act authorising the opening the falls of James river by subscription of money from individuals and appointing Trustees to take such subscriptions. Some persons accordingly subscribed, but no appearance of the arising of the works, being ever compleated in this way, the assembly after waiting 8 years, to wit, in 1772, passed another act for putting the business into a different train. They directed that as soon as the former & subsequent subscribers or a majority of them should think a sufficient sum raised any ten of them, being subscribers of £100 each at last, might appoint a general meeting at which a president & 11 directors should be elected, who should have power to agree with an undertaker to cut the canal proposed, provided such undertaker should first give sufficient security to perform his agreement: they gave to the adventurers authority to carry the canal through any persons lands, paying the worth of them, allowed them certain tolls, and pointed out the precise mode in which they might transfer their shares in the undertaking, to wit, by deed executed by the president, the subscriber having first tendered his share to the directors who were to have the refusal at the same price: very considerable sumswere engaged under

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this act: but there never was a meeting of the subscribers to elect a president & Directors, nor an undertaker employed. While this was in agitation Mr. Ballendine proposing to clear the falls of James river & the falls of Potowmack, set on foot subscriptions for enabling him to go to England to learn how to do it. Great sums were subscribed, he went, returned & brought some workmen. He purchased at the head of the falls of James river the 50 acres of land, three & a half of which were conveyed as before mentioned to the public for the foundery, and the other 46½ mortgaged to them. He opened a Canal through this land and then of his own authority, without any act of assembly or even an order of Court, as we are told, he made a dam across an arm of James river & drew off 50 feet width of water along his canal. In November 1777 by Petition to the assembly he informs them that the subscribers under the last act of assembly had transferred their interests to him, that he had made considerable progress in the Canal & should finish it if he met with no interruption from those through whose lands it must pass & prays an act might pass vesting him with the former subscribers. Had the allegation in his petition been true, that the former subscribers had transferred their interests to him, such an act would have been unnecessary, because he would have stood on their footing; but it could not be true, because the transfer being to be executed by the president after a tender & refusal of the share to the Company, & no president having ever been elected, there could have been no such transfer to him as he alleged. I have been thus particular, Sir, in order to show you that Mr. Ballendine has no legal right to the conducting the Canal which can stand in the way of the present Contract. He has an equity of redemption in the 46½ acres of land before mentioned, and so far stands on the footing of every other landholder through whose lands the Canall must pass. He prayed earnestly that their rights might be sacrificed to him, on his paying them the value: can he then with modesty now say that his rights shall not be sacrificed to others, paying him the value of the injury done him? It is now four years since he begun his Canal; he has conducted it about one twentieth part of the whole distance:

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and this too while his workmen were with him, & his means, if he had any, were fresh.

A very simple calculation then will inform us, that, in his hands the completion of this Work will require near a century, and then a question arises whether Mr. Ballendine will live so long. I think we may fairly conclude that he will never complete it. It is right that in cases of such general importance, the interests of a few individuals should give way to the general good, full compensation being made them; and as right that Mr. Ballendine's should, as those of the others whose Lands were to have been laid open to him. He has had a long enough trial to convince the whole world he never will complete it. Other Gentlemen now offer to do it within a reasonable term. As the assembly then after an eight years trial & failure of the act of 1764 made another experiment in 1772 it seems reasonable, after other seven years patience, to try yet other means. It is possible the present undertakers may not find it necessary to make use of Mr. Ballendine's Canal at all, but may take out the water elsewhere. But should they find that it can be taken off no where else, it is submitted to the assembly, whether his having dug a Canal along grounds thro' which the navigable canal must necessarily pass, shall privilege those grounds, more than the meadows & grounds of others are privileged, and for ever obstruct the opening that river, and whether there can be any sound objection to the having in his case, as well as in those of others, a just valuation made of ye injury he will sustain by the use which shall be made of his Canal, and after withholding the £2501.2.5½ due from him to the public, on that particular account, to pay him the balance if the injury shall be found to exceed that sum.

In stating to you the several obstacles which oppose themselves to the execution of the resolution of assembly, I have been necessarily led to mention circumstances which are to be found among your own journals & acts, & of which therefore you had knowledge before. They were necessary to continue the thread of the relation so as to render it intelligible, and are desired to be considered only as references to your own Records for more authentic and precise information.

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TO THE FRENCH MINISTER.[1]

(CHEVALIER DE LA LUZERNE.)

IN COUNCIL, Nov. 10, 1779.

SIR,—In compliance with the request which you were pleased to lay before us, I am now to authorize the forces of his most Christian majesty to land in such place, and his vessels to withdraw into such harbors of this Commonwealth as the Admiral or other Commanding Officer shall think proper, and to procure houses for the purpose of hospitals. In determining on the place of his debarkation & encampment, he will be pleased to follow his own judgment; receiving from us his information that the farther he can withdraw his vessels up our rivers into the country, the more it would be in our power to assist in defending them against any attack from the enemy.

York river according to our present idea would offer itself as the most defencible, but in this, &c., the board of war will issue orders for their immediate supply of provisions from our magazines, and will aid them with such of our vessels as may be necessary for procuring further supplies and landing their sick & other purposes.

These general resources seem to be all we can take for their present relief, till their wants shall be more particularly laid before us. We beg leave to take this early occasion to assure you that we shall receive into our state the forces of his most Christian majesty with the utmost cordiality and spare nothing

[1] From a copy courteously furnished by Hon. Elliot Danforth, of Albany.

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which shall be within our power to aid and accomodate them in whatever situation they shall choose.

But in this or any other we greatly apprehend the difficulties and distresses which may arise from the want of proper houses for hospitals.

I shall take great pleasure in showing on every occasion which shall occur, my personal gratitude and affection to your nation, and the particular esteem with which I am, Sir,

Your most obedient and most humble ser't.

TO THE GOVERNOR OF NORTH CAROLINA.[1]

(RICHARD CASWELL.)

WMS.BURG, November 11, 1779.

SIR,—I have lately received Messages and information from the Cherokee nation of Indians, painting their nakedness and general distress for want of European Goods, so strongly as to call for pity and all possible relief. Their several Settlements being contiguous to the two Carolinas & to Virginia they have at times received Supplies I believe from each of these States. Their great numbers however & the extent of their Settlements, when taken into view by any one of our States, bear a discourageing proportion to the moderate aids we can singly furnish and render a general distribution of them very troublesome. These considerations have induced me to take the Liberty of submitting to your Excellency a proposition (as I do to Governor Rutledge also by a

[1] From a copy courteously furnished by Dr. J. S. H. Fogg, of Boston.

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letter of this day's date) to divide the trouble and task of supplying them among our three States.

The division of those Indians into Southern, Middle & Northern Settlements, renders the apportionment of them obvious. The protecting from intrusion the lands of the Southern Cherokees & furnishing them with Goods seems most convenient to South Carolina, the same friendly offices to the Middle settlements seem most within your power & the Northern Settlements are most convenient to us. The attachment which each settlement will by these means acquire to the particular State which is it's immediate patron and benefactor, will be a bond of peace, and will lead to a separation of that powerfull people. If this distribution should happily meet the approbation of your Excellency & of Governor Rutledge, we shall do every thing in our power for discharging our Duties to the Northern settlement. Knowing your disposition to have these people protected in the possession of their unpurchased lands, I also take the liberty of mentioning to you that the old Tassel in a late Message to me complains of intrusions on their lands, and particularly of some attempts to take from them the great island. This, by the late extension of our boundary, falling, as I understand, within your State, removes the application for protection to your Excellency, whose power alone can extend to the removal of intrusions from thence. As to so much of their lands as lie within our latitudes, as well as the lands of other indians generally, our assembly now sitting has in contemplation to authorise the Ex-

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ecutive to send patrols of the military through them from time to time to destroy the habitations which shall be erected in them by intruders. The bearer of this Letter is a Major Martin, our agent residing with the Cherokees who will be able to inform your Excellency of any particulars you may wish to learn. We have reason to believe him a good kind of man & worthy of credit. Intending to fix a post and small Garrison in Powell's valley, we have ordered part of a battalion thither to erect a stockade. But as it would be proper for them first to assemble together (being not yet embodied) at a nearer Station, and there being a fort and houses at the great island, we have taken the liberty of appointing their rendezvous at that fort, till there shall be so many embodied as may proceed with safety to Powells valley. We have reason to expect that their stay at that place will be very short and hope it will not be disagreeable to your Excellency. The necessity of immediate orders, put it out of our power to apply for your previous approbation: We consider the measure still however subject to your pleasure and therefore take this early opportunity of acquainting you with it.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

WMSBURG, Novr. 16th, 1779.

SIR,—Colo. Bland being about to retire from his Command at the Barracks in Albemarle, and desirous to withdraw at the same time the party of his horse

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which has hitherto been stationed there, wished that we should supply their place by sending thither about twenty or five and twenty of the horse of this State. Our horse being as yet not very well trained, the officers represented that it would much impede that work, and leave the remaining fragment in a very awkward situation should we divide a troop. We have therefore ordered a complete troop to that station; but wish Congress would be pleased to notify as soon as convenient whether they approve of this or not.

We have hitherto been unable to raise more than about the half of a Battalion of infantry for guarding the Convention Troops at the same Post. The deficiencies have been endeavoured to be supplied with Militia. Congress have had too much experience of the radical defects and inconveniences of militia service to need my enumerating them. Our assembly now sitting, have in contemplation to put the garrison regiment on such a footing as gives us hopes of filling it by the next summer. In the meantime a Battalion which we are raising for our immediate defence may be spared to do garrison duty this winter, and as but a small part of it is raised, as yet, and not probable that it will be completed within any short time, we suppose that with Colo. Taylor's regiment it will not exceed the number required to guard the Troops.

I would observe to you that the Captains and Subalterns of this new Battalion are not to be called into service but as their men are raised; so that the burthen which has sometimes been incurred of paying officers without men need not be apprehended in this instance. We have therefore Ordered this Battalion

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to rendezvous at the Barracks and do duty there this winter; and that the Battalion should be discharged in proportion as these come in, on this measure also we ask the pleasure of Congress.

The appointment of a successor to Colo. Bland will give us great satisfaction and we hope Congress will take it into early consideration. The duties of that post call for respectable Abilities and an uncommon vigilance and firmness of character.

TO GENERAL WASHINGTON. W. MSS.

WILLIAMSBURG, Nov. 20, 1779.

SIR,—Your Excellency's letter on the discriminations which have been heretofore made between the troops raised within this state and considered as part of our quota, & those not so considered, was delivered me four days ago. I immediately laid it before the Assembly, who thereupon came to the resolution I now do myself the honor of enclosing you. The resolution of Congress of Mar. 15. 1779 which you were so kind as to inclose was never known in this state till a few weeks ago when we received printed copies of the journals of Congress. It would be a great satisfaction to us to receive an exact return of all the men we have in Continental service who come within the descriptions of the resolution, together with our state troops in Continental service. Colo. Cabell was so kind as to send me a return of Octob. 1779. of the Continental regiments commanded by Lord Sterling,

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of the 1st & 2d Virginia state regiments, and of Colo. Gist's regiment. Besides these are the following viz., Colonel Harrison's regiment of artillery, Colonel's Baylor's horse, Colonel Bland's horse, General Scott's new levies, part of which are gone to Carolina, and part are here, Colonel Gibson's regiment stationed on the Ohio, Heath and O'Hara's independent companies at the same stations, Colonel Taylor's regiment of guards to the Convention troops: of these, we have a return.

There may possibly be others not occurring to me. A return of all these would enable us to see what proportion of the Continental army is contributed by us. We have at present very pressing calls to send additional numbers of men to the Southward. No inclination is wanting in either the legislature or Executive powers to aid them or to strengthen you: but we find it difficult to procure men. I herewith transmit to your Excellency some recruiting commissions to be put into such hands as you may think proper for re-enlisting such of our soaldiery as are not engaged already for the war. The act of assembly authorizing these instructions requires that the men enlisting should be reviewed & received by an officer to be appointed for that purpose; a caution less necessary in the case of men now actually in service, & therefore doubtless able bodied, than in the raising new recruits. The direction however goes to all cases, and therefore we must trouble your Excellency with the appointment of one or more officers of review. Mr. Moss our agent receives orders, which accompany

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this, to pay the bounty money & recruiting money, & to deliver the clothing. We have however certain reason to fear he has not any great sum of money on hand: and it is absolutely out of our power at this time to supply him, or to say with certainty when we shall be able to do it. He is instructed to note his acceptances under the draughts and to assure payment as soon as we shall have it in our power to furnish him, as the only substitute for money. Your Excellency's directions to the officer of review will probably procure us the satisfaction of being informed from time to time, how many men shall be re-enlisted.

By Colo. Mathews I informed your Excellency fully of the situation of Governor Hamilton & his companions. Lamothe, & Dejean have given their paroles, and are at Hanover court-house: Hamilton, Hay, and four others are still obstinate; they therefore are still in close confinement; tho their irons have never been on, since your second letter on the subject. I wrote full information of this matter to General Phillips also, from whom I had received letters on the subject. I cannot in reason believe that the enemy, on receiving this information either from yourself or General Phillips, will venture to impose any new distresses on our officers in captivity with them. Yet their conduct hitherto has been most successfully prognosticated by reversing the conclusions of right reason. It is therefore my duty, as well as it was my promise, to the Virginia captives to take measures for discovering any change which may be made in their situation. For this purpose I must

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apply for your Excellency's interposition. I doubt not but you have an established mode of knowing at all times through your commissary of prisoners, the precise state of those in the power of the enemy. I must therefore pray you to put into motion any such means you have of obtaining knowledge of the situation of the Virginia officers in captivity. If you should think proper, as I could wish, to take upon yourself to retaliate, any new sufferings which may be imposed on them, it will be more likely to have due weight, and to restore the unhappy on both sides to that benevolent treatment for which all should wish.

PROCLAMATION LAYING EMBARGO. C.C.

[Nov. 30, 1779.]

By His Excellency Thomas Jefferson, Esq ; Governour or Chief Magistrate of the Commonwealth of Virginia :

A Proclamation.

Whereas the exportation of provisions from the State will be attended with manifest injury to the United States, by supplying the enemy, and by rendering it difficult for the publick agents and contractors to procure Supplies for the American troops, and will moreover give encouragement to engrossers and monopolizers to prosecute their baneful practices, I have thought fit by and with the advice and consent of the Council of State, to issue this my proclamation for laying an embargo on provisions ; and I do hereby lay an embargo on provisions, viz., on all beef, pork, bacon, wheat, Indian corn, pease or other grain, or flour or meal made of the same ; to continue until the first of *May* next. And I do hereby strictly prohibit all mariners, masters, and

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commanders of vessels, and all other persons whatsoever within this State, from loading on board any vessel for exportation, and from exporting all or any of the above species of provisions, by land or water from the date hereof, during the term aforesaid, under pain of incurring the penalties inflicted by the act of Assembly intitled *An Act to empower the Governour and Council to lay an embargo for a limited time*, except as in the said act is excepted. And I do hereby strictly charge and command all naval officers and others, in their respective departments, to exert their best endeavours to the end that this embargo be strictly observed.

Given under my hand this 30th day of November, 1779.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

WMSBURG, Decr. 16, 1779.

SIR,—We have information from our Delegates in Congress that the detention of some continental arms by the executive of this State during the course of the last summer has given considerable umbrage to Congress. I beg leave therefore, thro' you Sir, to lay before that honorable body facts, simply as they occurred, hoping that these will satisfy them that, the arms being justly due to this State, necessity alone dictated the measure, and that no sentiment of disrespect to Congress entered into the transaction. This State in an early part of the present contest raised at first two, and soon afterwards seven Battalions for its particular defence. Finding however that the dangers of our being invaded became less, our legislature made a tender of these Battalions for the Continental service. The tender was accepted of by Congress only

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on condition that we would permit them to carry their arms with them. They were accordingly marched to the grand army, time after time, as we could get them armed. I think this condition was dispensed with as to two Battalions only which Congress, induced by their increasing wants of men, permitted to march on without their arms. This is one of the articles of Debit in our account of arms against the Continent, which I state particularly, in order to bring it into recollection with some of your honorable members, and because, being recollected, it will go far in our justification as to the number of arms retained with us. Since this however, at different times, and for different corps, many smaller parcels of arms have been sent to Congress by us. It is a fact, which we are to lament, that, in the earlier part of our struggles, we were so wholly occupied by the great object of establishing our rights, that we attended not at all to those little circumstances of taking receipts, and vouchers, keeping regular accounts, and preparing subjects for future disputes with our friends. If we could have supported the whole Continent, I believe we should have done it, and never dishonored our exertions by producing accounts; sincerely assured that, in no circumstances of future necessity or distress, a like free application of any-thing theirs would have been thought hardly of, or would have rendered necessary an appeal to accounts. Hence it has happened that, in the present case, the collection of vouchers for the arms furnished by this State has become tedious and difficult.

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Our board of war has been attending to this business a considerable time, but have as yet authenticated the loan of only 5664 stand of arms and 580 rifles. They seem however to believe that (exclusive of considerable numbers delivered where no receipts were taken and the officers to whom delivered are dead or not to be found, which of course we shall lose) they will be able to establish a right to 10,000 stand. These arms were most of them of the very best quality, imported from Great Britain, by the State, for its own use. After the loan of so many to the continent, the loss of a considerable number put into the hands of the militia during the short invasion of the last spring, many of which we were never able to recover, and a very recent Loan of 1000 stand, to be sent on, at the request of congress, to South Carolina, we were reduced to not more than 3,000 stand in all our magazines. Rumors were spread of an intended invasion by the enemy for the purpose of rescuing the convention Troops: that body of men were in the heart of our Country under a guard not able to furnish centinels for ordinary duty; congress had just recommended to us to prepare for the most immediate and most vigorous operations, and to have our militia ready to march at the shortest warning; the knolege of the low state of our magazines had by some means got abroad, and spread a general alarm among our people: in this situation of things a vessel, loaded with arms, seemed to be guided by the hand of providence into one of our harbours. They were it 's true the property of our friends, but of friends indebted to us for those very articles. They were for the common

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defence too, and we were a part of the Body to be defended. An officer came for the purpose of removing them out of the State. Would circumstances have permitted a previous application to congress, tho' not present myself, I so thoroughly know the respect which the executive bears for congress, that I am safe in affirming that such an application would most certainly have been made. But had they awaited that ceremony, the arms would have been gone: the continent of course would have been at the expence, and the arms exposed to the injury, and risk of, a double transportation: for I cannot but take for granted that congress would on such an application, in the case of a State so reduced in her magazines, and reduced by Loans to them, have ordered the arms to be replaced. Time however did not admit of this ceremony; the executive therefore retained 5000 stand. We shall not draw examples of similar liberties taken by other States, we shall never recapitulate aids granted to, or taken by our brethren, from the common stock, because we wish it to be freely used for their service, and to draw nothing from it for ourselves unless our distresses should at any time be such as to point us out to them as objects needing the common aid. But we will observe in general, that, between congress and this State, similar freedoms in other articles, had been repeatedly and mutually taken, on many former occasions, and never had been the cause of discontent to either party. This precedent then, strengthened by the existence of an actual Debt, seemed to give a Double sanction to the executive for what they did: nor did any instance occur to them of unreadiness at

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any time to spare freely on continental requisition any articles within possession or power, which might expose them to experience in turn the disregard of congress. I flatter myself therefore that that honorable Body whenever this matter shall be the subject of their deliberations will be of opinion that the proceedings of the Lieutenant Governor and Council were substantially justifiable. They hope that no want of ceremony, or other smaller circumstance may have been matter of Offence to congress. If in this they should be mistaken, feeling the most real respect for that body, impressed with the Idea that its authority can never be wounded without injury to the present union, they are to lament the misapprehension & wish to remove it by assuring you, as they may with truth, that no sentiment of theirs, either on this, or any other occasion, has justified it. A motive of duty and respect to the collective council of our union has led me into this detail to remove all grounds of discontent from among us, and to assure you Sir at the same time that I shall consider as occasions of manifesting my zeal for our sacred cause.

TO GENERAL WASHINGTON. W. MSS.

WILLIAMSBURG Decr. 16, 1779.

SIR,—I take the liberty of putting under cover to your Excellency some Letters to Generals Phillips and Reidesel, uninformed whether they are gone into New York or not, and knowing that you can best forward them in either case.

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I also trouble you with a letter from the Master of the Flag in this State to the British Commissary of Prisoners in New York, trusting it will thus be more certainly conveyed than if sent to Mr. Adam. It is my wish the British Commissary should return his answer through your Excellency or your Commissary of Prisoners, and that they should not propose under this pretext to send another Flag, as the mission of this Flag is not unattended by circumstances of suspicion, and a certain information of the Situation of ourselves and our allies here might influence the measures of the enemy. Perhaps your Commissary of Prisoners can effect the former method of answer.

I inclose to you part of an act of Assembly ascertaining the quantities of Land which shall be allowed to the officers and soldiers at the close of the war, and providing means of keeping that country vacant which has been allotted to them.

I am advised to ask the attention of your Excellency to the case of Colo. Bland, late commander at the Barracks in Albemarle. When that Gentleman was applied to, to take that Command, he attended the Executive here, and informed them, that he must either decline it, or be supported in such a way as would keep up that respect which was essential to his command without at the same time ruining his private fortune.

The Executive were sensible that he would be exposed to very great and unavoidable expence, they observed that his Command would be in a department separate from any other, and that he actually relieved a Major General from the same service.

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They did not think themselves authorized to say what should be done in this case, but undertook to represent the matter to Congress and in the mean time gave it as their opinion that a decent table ought to be found for him. On this he undertook the command, and in the course of it incurred expenses which seem to have been unavoidable unless he would have lived in such a way as is hardly reconcilable to the spirit of an officer, or the reputation of those in whose service he is. Governor Henry wrote on the subject to Congress. Colo. Bland did the same; but we learn that they have concluded the allowance to be unprecedented and inadmissable, in the case of an officer of his rank. The Commissaries on this have called on Colo. Bland for reimbursement. A sale of his Estate was about to take place, when we undertook to recommend to them to suspend their demand till we could ask the favor of you to advocate this matter with Congress so far as you may think it right, otherwise the ruin of a very worthy officer must inevitably follow.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL Dec. 23, 1779.

SIR,—The inclosed letter from Governor Lee and intelligence[1] accompanying it, gives reason to apprehend that the enemy meditate an invasion of this state. The reasons which support this opinion as well as those which oppose it will occur to the General Assembly. It is our duty to provide against every event

[1] From the French Minister.

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and the Executive are accordingly engaged in concerting proper measures of defence. Among others we think to call an immediate force from the militia to defend the post at York, and to take a proper post on the South side of James river, but the expence, the difficulties which attend a general call of the militia into the field, the disgust it gives them more especially when they find no enemy in place, and the extreme rigor of the season, induce us to refer to the dicision of the general assembly, whether we shall on the intelligence already received & now communicated to them, call a competent force of militia to oppose the numbers of the enemy spoken of; or whether we shall make ready all orders & prepare other circumstances, but omit actually issuing these orders till the enemy appear or we have further proof of their intentions? The assembly will also please to determine whether, in case the enemy should make a lodgement in the country, it would be expedient to avail ourselves of the laudable zeal which may prevail on their first landing and enlist a sufficient number to oppose them & to continue in service during the invasion or for any other term. Perhaps it may not be amiss to suggest to the assembly the tardiness of collecting even small numbers of men by divisions, that if any better method should occur to them they may prescribe it. The present state of the Treasury in more points than one, will no doubt be thought an absolute obstacle to every military endeavor which may be necessary.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

WMSBURG, Decr. 30th, 1779.

SIR,—Your letter inclosing the resolutions of Congress relating to the capture of the Portuguese Snow by Captain Cunningham has remained hitherto unanswered because I hoped Daily to be enabled to write more fully on that subject. The resolutions and

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documents accompanying them, as soon as received, were put into the hands of our Attorney General for his opinion, with intention to have such proceedings at Law instituted as he should advise. You will see that, by his opinion, which I do myself the honor of inclosing you, the Offence could not be prosecuted here criminally; our act of Assembly, establishing a Court of Admiralty, having, in conformity with the Articles of Confederation, expressly inhibited it from criminal jurisdiction. The General Assembly being then to meet in the month of October, I reserved the subject to be laid before them, which was accordingly done. A great variety however of other Business, which would not admit of being postponed, occasioned them to pretermit this til their next session. So that if the offenders be within the Cognizance of the criminal Law at all (which the attorney seems to doubt) we have as yet no court wherein they may be prosecuted. A Civil action for Damages may be instituted; and if the sufferers shall think proper to direct it, the countenance and protection of Government here shall not be wanting so far as propriety will admit or justice require.

I am to acknowledge the receipt of your Letter of December 10th, inclosing resolutions of Congress of the same Date, approving our measures for guarding the Convention Troops, and accepting the resignation of Colo. Bland. I hope that, ere this, his place has been supplied, as the constant attention of an officer of knowledge and understanding is requisite there. Perhaps his troubles might be lessened and his office

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more fully discharged, by residing at the Barracks, rather than at Charlottesvile; these posts being five or six miles apart.

The resolutions of the 11th & 14th inst. inclosed in your letter of the 14th unfortunately came not to hand till two Days after the rising of the General Assembly, which was on the 24th, and they will not meet again before the period for the delivery of the Indian Corn will be passed. They had however, early in the present year, laid a Tax payable in specific commodities; and, in their late session, directed the Executive to raise from the proceeds of that Tax, six hundred thousand pounds, towards making up the quota's of money for which they were called on by Congress. The articles specified were Wheat, Indian Corn, rye, Barley, Oats, hemp and Tobacco at the option of the payer, but it is conjectured that paiment will be made almost wholly in Indian Corn & Tobacco. I am in hopes that, on those acts of the legislature, we shall be enabled to comply with your requisition as to the specific article and quantity required, as we may retain the Tax in its specific form instead of converting it into money: but we shall fail in point of time; because it happens, that the ultimate term of paiment allowed for this Tax is the Day on which your resolutions require delivery of it to your Commissary at such places as he shall appoint. In this point then will be felt the misfortune of the legislature's separation before receipt of the resolutions; the Executive having no powers to shorten the Day

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of paiment. I thought it my duty to give you this early notice of the particular part of that requisition, with which, from these circumstances we shall be unable to comply, that the ill effects of disappointment may be lessened by other timely measures.

The resolution of the 15th Instant recommending the continuance of embargoes is also received, that measure had been adopted some time ago as you will see by the proclamation inclosed.

I shall hereafter according to the desire of your Secretary transmit you copies of our acts of Assembly by which you will receive more minute information of the measures taken in consequence of your recommendations from time to time than the compass of a letter would admit.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

WMSBURG, Feb'y 9th, 1780.

SIR,—Your Excellencys letter inclosing that of Mr. Scott to President Reed, and the President's to the Delegates of Pennsylvania in Congress, together with the resolutions of your honorable body recommending to both States to forbear granting lands within their disputed territory came safely to hand. I immediately availed myself of an opportunity, which occurred at that time, to Pittsburg, of taking measures to prevent any disorders on the part of our people, having had no other information on the subject than what was communicated in the letters be-

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fore mentioned. I am uninformed whether any actual breach of the peace has taken place. As Mr. Scott however mentions nothing but the proceedings of the Commissioners for settling disputed titles under this Commonwealth, I rather hope that that is the only act which has been the subject of uneasiness. Our assembly finding that, in defiance of their endeavours to discourage and prevent the settling our Western Country, people were removing thither in great numbers, appropriating lands of their own authority, and meditating to hold them by force, after propositions, made and rejected at several sessions, for legalizing those settlements, at length found it necessary to give way to the torrent, and by their act of May 1779 to establish a land office. The irregular claims and settlements which in the mean time had covered that Country were become so extensive that no prudent man could venture to locate a new claim, and so numerous that in the common administration of justice it would have engrossed the whole time of our ordinary courts for many years to have adjusted them. So multifarious were they, at the same time, that no established principles of law or equity could be applied for their determination; many of them being built on customs & habits which had grown up in that Country, being founded on modes of transmission peculiar to themselves, and which, having entered almost into every title, could not be absolutely neglected. This impressed on the minds of the assembly the necessity of sending special Commissioners to settle, on the spot, & with-

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out delay, those various claims, which being once cleared away would leave the residuary Country open to the acquisition of other adventurers. The Western Counties were accordingly laid off into Districts for this purpose, and the arrangement being general, included the territory on the Waters of the Ohio claimed by the State of Pennsyslvania. Whether the Assembly did not advert to this circumstance, or took for granted that the Commissioners would never consider a law of this State as meant to be applied to those who professed themselves the Citizens of another, & had been freely admitted so to profess themselves by our Government, or whether they relied that the term of one year, within which they provided that no grant should issue on any judgment of the Commissioners would give them time for the settlement of our disputed territory, or at least to provide for the peace of their Citizens within it, is not within my province or power to say. This however I can say, that from an intimate knowledge of their cordial desire to settle this claim with them amicably, no motive, inconsistent with that, entered into the transaction. In fact the execution of this Commission, guarded as its effects are by a twelve monts [*sic*] delay of the grants, appears to be as peaceable & inoffensive as the mission of so many astronomers to take the longitude or latitude of the several farms. There is indeed a clause in the act of Assembly which might, on first view, be thought to leave an opening for the introduction of force. It is that which sais [*sic*] that judgment be rendered, if

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posses be *forcibly detained* by the party against whom it is, restitution may be made by the Commissioners or by any justice in like manner as might be done in the case of lands holden by grant actually issued: a Clause very necessary in our other Western Country; but not at all applicable to that part of it claimed by the State of Pennsylvania. By the laws of this Commonwealth (the same in this instance with the English law) even in the case of lands holden under actual grant, no restitution can be made after three years peaceable possession, a term much shorter than that of any bona fide possessions in the disputed territory. The latest of these must be of six or seven years continuance, the present dispute having so long subsisted. The expediency & necessity therefore of the general measure of establishing this temporary Court, I doubt not but Congress will perceive, and tho' it is to be wished that the disputed territory had been exempted from this jurisdiction, in order to avoid everything which might give jealousy or uneasiness to a Sister State, or which might lead them into an apprehension that we meant to do any act which sh'd wound the amity between us; yet I hope when Congress contemplates it's effects, they will be sensible that it only amounts to a settlement on paper of the rights of individuals derived from this State and that no mans possession or quiet can be disturbed in consequence of any proceedings under it, until our Legislature which meets in May next shall have had time to settle finally with them this unfortunate dispute, or otherwise to pro-

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vide against the evils they have apprehended. On my part nothing has been, or shall be omitted for preservation of the peace of that country. Besides the injunctions which, as far as the laws would authorize, I have urged to those the exercise of whose offices might lead to any thing disagreeable, or whose personal character and influence might aid in the preservation of peace, I shall avail myself of such other measures as may tend to the same object. The law having admitted grants to be sued out in cases where there were no contending claims of individuals, I inquired at the proper office whether, previous to the receipt of the resolutions of Congress, any such might have issued for land in the Counties of Yohogania, Monongahela & Ohio, they being the Counties part of which are claimed by the State of Pennsylvania. I found that eight such had issued, under what particular circumstances they are I am not able to discover. I am happy however that the law has left it in my power to comply with the recommendations of Congress, by witholding my signature from any other grants within those Counties, which I shall strictly do, and rest its approbation on the general Assembly and the motives which led to it.

President Reed seems to think that this State has affected delays in the settlement of the right to the disputed territory. A review of the proceedings of our assembly on that subject will so fully convince you of their earnest and unremitting endeavours to procure an amicable settlement, that, without giving

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you further trouble, I may take the liberty of referring you to the inclosed State of their proceedings for full justification from this suspicion. The novelty of the line proposed for the Western boundary of Pennsylvania by the joint Commissioners, may well account for a hesitation to confirm it, until probable information can be obtained of its actual location. At the same time I must not leave unnoted that the joint Commissioners have not attended to the settlers under either State, who may by this new line fall within the other, nor made any proposition for quieting their possessions. Yet it is surely an object worthy, the attention of us all, to provide that a tract of country, derelict by the State under which they wished to live, should not be urged into a secession from the common union, and into an assumption of independence by fears that their actual possessions may be made to give way to mere paper titles. Should the reference of the proposition to our next session of assembly give time to avoid this evil alone, I am persuaded it will be thought conducive to the quiet of both States.

I shall take care to lay before our Assembly the resolutions and letters you have been pleased to communicate to me on this subject, not doubting that they will supply those efforts beyond the limits of my power which are necessary to remove the present & prevent all future uneasiness—I can say nothing to whatever looks like menace on the part of our brethren. The choice of terms would be delicate and difficult, and their construction hazardous, which would ex-

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press a proper sensibility on this tender point, and not produce sentiments repugnant to that sincere love I shall forever strive to cultivate with all our Sister States. To history I must therefore refer for answer in, which it would be an unhappy passage indeed which should show by what fatal indulgence of subordinate views and passions, a contest for an atom had defeated well founded prospects of giving liberty to half the globe. That no such blot shall wipe out the sequel of our glorious struggle I trust as well in the approved zeal of the Gentleman who adorns the administration of the other State, as in the resolutions of our own Government to postpone to the great object of Liberty every smaller motive & passion. In every Circumstance, Sir, the kind attention of your body will be remembered and approved, and no occasion omitted of assuring you with how great respect and esteem I am,

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TO GENERAL WASHINGTON. J. MSS.

WILLIAMSBURG, FEB. 10th, 1780.

SIR,—It is possible you may have heard that in the course of the past summer an expedition was meditated, by our Colo. Clarke against Detroit: That he had proceeded so far as to rendezvous a considerable body of Indians (I believe four or five thousand) at St. Vincennes: but being disappointed in the number of whites he expected & not chusing to rely principally on the Indians was obliged to decline it. We have a tolerable prospect of reinforcing him this spring to the number which he thinks sufficient for the enter-

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prise. We have informed him of this and left him to decide between this object and that of giving vigorous chastisement to those tribes of Indians whose eternal hostilities have proved them incapable of living on friendly terms with us. It is our opinion his inclination will lead him to determine on the former. The reason of my laying before your Excellency this matter is that it has been intimated to me that Colo. Broadhead is meditating a similar expedition. I wish therefore to make you acquainted with what we had in contemplation. The enterprising & energetic genius of Clarke is not altogether unknown to you. You also know (what I am a stranger to) the abilities of Broadhead & the particular force with which you will be able to arm him for such an expedition. We wish the most hopeful means should be used for removing so uneasy a thorn from our side. As yourself alone are acquainted with all the circumstances necessary for well informed decision, I am to ask the favor of your Excellency if you should think Broadhead's undertaking it most likely to produce success that you will be so kind as to intimate to us to divert Clarke to the other object which is also important to this State. It will of course have wait with you in forming your determination, that our prospect of strengthening Clarke's hands sufficiently is not absolutely certain. It may be necessary perhaps to inform you that these two officers cannot act together, which excludes the hopes of ensuring success by a joint expedition.

I have the honour to be with the most sincere esteem your Excellency's most obedt. & most hbl. servt.

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TO ——— ?[1]

WILLIAMSBURG, Feb. 18, 1780.

SIR,—I have spoken with the Board of War on the subject of the battery at Hood's, and they concur with me in wishing to avail themselves of your services there, and will give orders accordingly. This together with similar batteries on the other rivers will probably take some time. Tho' considering their great importance to the security and quiet of the country above them, we are assured you will freely lend us your aid in seeing them planned and executed. We ask this the rather as the distresses impending over our sister state of South Caroline urges us to send forward the whole of our regiment of artillery (whom we have a power of sending out of the state) and a detachment from yours of about 80 under the command of Colo. Porterfield, with the two state troops of horse. Your battalion after this detachment is withdrawn we think to divide among the several battalions, and have reason to hope that the recruits for the two Eastern battalions will enable us to complete it, so that on you we shall rest for this campaign the burthen of our military cares, endeavoring to procure a readiness of such aids of militia as may be suddenly called for by you. I must ask the favor of you to communicate to Colo. Porterfield orders to prepare immediately for marching, and to concert with him the best means of obtaining voluntarily the number of men required from your battalion. We understand a greater number of them have re-enlisted

[1] From the original in the possession of Ferdinand J. Dreer, Esq., of Philadelphia.

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under the act concerning officers, soldiers, sailors & marines, who of course are obliged to go: but we would rather call the willing into this service.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND, April 10th, 1780.

SIR,—The state of the recruiting business in this Country is as follows: There are some draughted soldiers in different parts of the Country, but they are so far, so disposed, & enlisted for so short a time that we have not thought them worth the expense of gathering up. There is recruits raising under a standing law concerning Officers, Soldiers, Sailors & Marines, these are enlisted for the war by a person resident in each County, we have an Officer appointed who rides the circuit of the County once in two months to receive these men at certain places of Rendezvous, he has just finished his circuit, and we have sent on about fifty of these recruits under the command of Captn. Minnis to the Southward. All the Officers of the Virginia Line now in the State, who have (according to a request of the executive) applied for recruiting instructions & money, have received them. These have been given with a particular view of reenlisting such Soldiers of their respective Regiments, as are discharged, or are entitled to a discharge. I hear they are tolerably successful; as to the 1st & 2nd State Regiments particularly, there not having been money in the treasury enough to reenlist them at the time they became entitled to discharges, their Officers (as I am informed) postponed paying them off, gave them

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furloughs to visit their friends till the 1st of May, at which time they were to Rendivous [*sic*] at Williamsburg & Fredericksburg, and it was hoped money would then be ready for reenlisting them, in the meantime considerable sums have been furnished the Officers, and more will be provided, and there is good reason to hope this Judicious [*sic*] of their officers will enable us to recover most of them. Colo. Harrison's Regiment of Artillery is very considerably recruited. Under the preceding state of things, I do not know of any immediate Service with which we need to trouble you: perhaps you could be instrumental in giting orders from the proper authority for such of the above Regiments as are not ordered to the Southward to march thither by fifties as far as they are recruited. We have such orders for all other new recruits not yet regimented; but I do not consider those as orders authorizing the march of men raised by the Officers of a particular Battalion for their Battalion, and that not under marching orders.

TO GENERAL BARON DE RIEDESEL.[1]

RICHMOND, May 13, 1780.

SIR,—Your several favors of Dec. 4, Feb. 10, & Mar. 30 are come duly to hand. I sincerely condole with Madame de Riedesel on the birth of *a daughter*, but I receive great pleasure from the information of her recovery, as every circumstance of felicity to her, yourself or family is interesting to us. The little

[1] From the original in the possession of Dr. Thomas Addis Emmet of New York. In the Washington edition the date of this letter is erroneously printed May 3d.

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attentions you are pleased to magnify so much never deserved a mention or thought. My mortification was that the peculiar situation in which we were, put it out of our power to render your stay here more comfortable. I am sorry to learn that the negotiations for the exchange of Prisoners has proved abortive, as well from a desire to see the necessary distresses of war alleviated in every possible instance, as that I am sensible how far yourself & family are interested in it. Against this however is to be weighed the possibility that we may again have a pleasure we should otherwise perhaps never have had, that of seeing you again. Be this as it may, opposed as we happen to be in our sentiments of duty & honor, and anxious for contrary events, I shall nevertheless sincerely rejoice in every circumstance of happiness or safety, which may attend you personally. And when a termination of the present contest shall put it in my power, to declare to you more unreservedly how sincere are the sentiments of esteem and respect (wherein Mrs. Jefferson joins me) which I entertain for Mad'me de Riedesel & yourself, and with which I am, Sir, Your most obedient & most humble servant.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL, June 8, 1780.

SIR,—According to the advice of the General Assembly we have proceeded to take measures for selling six hundred thousand weight of the public Tobacco. To do this as readily as possible

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we determined to allot for this purpose the Tobacco at the nearest Warehouses, and particularly four hundred thousand at the warehouses at or near the Falls of James River and on Appomattox.

We have now an offer for this quantity to be paid for at the market price, the Crop Tobacco on the 19ᵗ instant, the transfer in bills on Philadelphia, to be drawn now, but not payable till six weeks hence. As it was probably the sense of the Assembly, that this sale should be for ready money, we have not concluded this agreement, till we know whether it will be approved, nor should we have entertained such a negociation but that we have no prospect of selling for ready money. The Credit of the Gentlemen proposing to purchase is such in Philadelphia, as will probably render their Bills immediately negociable there. It is necessary for us to give them a definative answer today.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND, June 9th, 1780.

SIR,—I had the honor of receiving your requisition for 1.900,000 Dollars & of laying the same before the General Assembly then sitting. They immediately took measures for complying therewith. As we had not the money in our treasury it became necessary to raise it partly & principally by a sale of property, and partly by borrowing. These operations requiring some time it is absolutely impracticable, however earnest their desires have been, to place it in Philadelphia by the day proposed. I hope however I shall not be disappointed in my expectations of being able to send from hence by the 20th inst. nearly the whole sum or perhaps the whole in money, or in good bills

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on Philadelphia paiable on such short day as will render them equal to money.[1]

On receiving from the board of war notice of the aids which would be necessary to forward on the Maryland and Delaware lines, I consulted with your Deputy Quartermaster in this State, and gave him every aid & power which he asked. He left me with the most confident assurance that waggons to move the whole corps should be with them in two days from that time. Why he quitted his station and State at the moment when every exertion was called for to forward a respectable body of troops to the relief of a sinking State & Army should seem to be worth enquiring. The mortifications I have experienced from the repeated disappointments which flowed from the devolution of his duties on Deputies acting without a head, without concert, or communication with one another, have been as great as if they had been really the cause of those unfortunate events they were calculated to produce. The artillery & 1st. division moved after a few days' delay only; but

[1] On June 30, 1780, Jefferson wrote to the President of Congress:

"By Mr. Foster Webb you will receive in part of the requisition of Congress of 1.953,200 Dollars, the following sums, to wit 650,000 Dollars in money, and bills for 780,239⅓ Dollars, making in the whole 1.430,239⅓ Dollars. There remains a deficiency of 522,960⅔ dollars which I hope to be able to send on within four weeks from this time. I should have been very happy to have been enabled to have sent on the *whole*, in *money*, and by the *day prescribed*: but be assured it was absolutely impossible. There is less money than our contracts had authorized us to expect, as you will perceive by comparing the sum sent with that I had mentioned to you in a former letter. This has been occasioned by a breach of contract in those to whom we had sold property to raise the money. Instead of this they have given us bills, which are sent on and I hope will be paid so that no disappointment may happen."

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the second division are but just now enabled to proceed.

Our information from the Southward has been at all times defective, but lamentably so on the late occasion. Charlestown [*sic*] had been in the hands of the enemy 24 days before we received information of it. Their movements since that event are handed to us very imperfectly. The inclosed intelligence from Governor Nash seems to indicate an intention to penetrate as far Northwardly as they can. Whether under these appearances it may be expedient to send further aids to the Southern States can only be decided by Congress on a view of the operations which they may have in contemplation elsewhere. I have no doubt such aids will be sent unless greater good to the general union will be produced by employing them where they are. In either event great supplies of military stores are immediately requisite here. North Carolina has none at all, those of South Carolina are in the hands of the enemy and ours inadequate to the arming our own militia. As far as they will go, they have been, and will be cheerfully submitted to the common use. Some members lately of our executive, but now of your honourable body, are able to give you a state of our stores, which I consider as a more safe communication than by confiding it to paper. Of musket cartridge paper, and cartouch boxes particularly we are so destitute that I must pray Congress to send us an immediate supply. These articles are so light too, that a single waggon if sent without delay may furnish a timely and considerable relief.

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About seventy new recruits for Colonel Washington's horse, being now in this State & utterly unfurnished, will be provided with all necessaries by us.

We are informed that the greater part of the Continental horse to the Southward are reduced to the same helpless condition. Some infantry also have applied for military furniture. Gibson's & Brent's battalions which went into Continental service full armed were disarmed when returned to us. They are now recruited to about 200 men, and will be modelled for service. We shall again put arms in their hands, as no motives will induce us to let the general good labour even a moment for want of anything we have. But it would be very satisfactory to us to receive the pleasure of Congress as to the mode of authenticating any advances of this kind which we shall make for them: some of the applications having been necessarily made by subordinate officers.

The removal of our Seat of Government to this place has withdrawn us from the post road. A rider employed by some private gentlemen furnishes a precarious conveyance to Hanovertown, the nearest place on the post road. This has rendered all our communications with Congress and the other States very uncertain & our Southern ones particularly circuitous and slow. I believe there can be no doubt but that were the post directed to pass from Hanover Courthouse immediately through this place, by Petersburg &c. it would shorten the distance and still more time by crossing James river and Roanoke where

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they are narrow and always passable; whereas the present post road crosses where they are wide and tempestuous.

I beg leave to submit the expediency of this alteration at this time particularly to the wisdom of Congress assuring them it is considered as very desirable here.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND June 11th, 1780.

SIR,—Majr. Galvan as recommended by your Excellency, was dispatched to his station without delay, and has been furnished with everything he desired as far as we were able. The line of expresses formed between us is such as will communicate intelligence from the one to the other in twenty-three hours. I have forwarded to him information of our disasters in the South as they have come to me.

Our intelligence from the Southward is most lamentably defective. Tho' Charlestown has now been in the hands of the enemy a month, we hear nothing of their movements which can be relied on. Rumors are that they are penetrating Northward. To remedy this defect I shall immediately establish a line of expresses from hence to the neighborhood of their army, and send thither a sensible judicious gentleman to give us information of their movements. This intelligence will I hope be conveyed to us at the rate of 120 miles in the 24 hours. They set out to their stations tomorrow. I wish it were possible that

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a like speedy line of communication could be formed from hence to your Excellency's headquarters. Perfect & speedy information of what is passing in the South might put it in your power perhaps to frame your measures by theirs. There is really nothing to oppose the progress of the enemy Northward but the cautious principles of the military art. North Carolina is without arms. We do not abound. Those we have are freely imparted to them, but such is the state of their resources that they have not yet been able to move a single musket from this state to theirs. All the waggons we can collect have been furnished to the Marquis de Kalb, & are assembling for the march of 2500 militia under Genl. Stevens of Culpeper who will move on the 19th inst. I have written to Congress to hasten supplies of arms & military stores for the Southern states, & particularly to aid us with Cartridge paper & cartridge boxes, the want of which articles, small as they are, renders our stores useless. The want of money cramps every effort. This will be supplied by the most unpalatable of all substitutes, force. Your Excellency will readily conceive that after the loss of one army our eyes are turned towards the other, and that we comfort ourselves if any aids can be furnished by you without defeating operations more beneficial to the general union, they will be furnished. At the same time I am happy to find that the wishes of the people go no further, as far as I have an opportunity of learning their sentiments. Could arms be furnished I think this state & North Caroline would embody from ten

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to fifteen thousand militia immediately, & more if necessary.

The following is a state of the force in and about to be put in motion

Colo. Buford's regulars (of Scott's Woodford's men	400	
Colo. Porterfield's do. of Virginia State troops	500	
Colo. Armand's horse	190	
The remains of White's & Washington's as is said about	200	
The Maryland & Delaware troops & artillery .	1900	3190
Virginia militia	2500	
North Carolina militia under Genl. Caswell in the field	400	
do. embodying under Govr. Caswell if they can be armed	4000	6900

I hope e're long to be able to give you a more certain statement of the enemy's as well as our situation, which I shall not fail to do. I inclose you a letter from Majr. Galvan, being the second I have forwarded to you.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL, June 13, 1780.

Sir,—The supplies of cloathing and other necessaries actually procured for the officers of the Virginia troops having been very far short of what an act of the legislature had authorised them to call for, and it being evident to the Executive from a view of the supplies on hand provided by the board instituted for that purpose, and of the means now in their hands for making future

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provision, that there is no prospect that those allowances can be fully procured, I beg leave to bring the subject under the consideration of the legislature. Whether, on a revision of the allowance, it may or may not be found greater than is necessary, is a question for them alone to decide. The difference however between that allowance and what is actually received by the officers has produced a claim for compensation which is the subject of the within letter and requires legislative explanation. These differences have been the cause of very real sufferings to the officers, of much discontent, and have produced the most distressing applications to the Executive. They have been more severely felt by the gentlemen serving within the state than by those engaged in more active scenes of duty, the latter having been supposed more exposed to wants with less means of supplying them.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.[1])

IN COUNCIL, June 14, 1780.

Sir,—In a Letter which I had the Honor of addressing you on the meeting of the present General Assembly, I informed you of the necessities which had led the Executive to withdraw our Western troops to the Ohio. Since the date of this letter, I have received the inclosed of the Second instant from Colo. Todd, communicating the measures he had adopted in conjunction with Colo. Clarke to procure such a Settlement contiguous to the Post which shall be taken as may not only strengthen the garrison occasionally, but be able to raise provisions for them. As the confirmation of these measures is beyond the powers of the Executive it is my duty to refer them to the General Assembly. It may be proper to observe that the grant of lands to Colo. Todd was made on a supposition that the post would be taken on the North side of the Ohio, whereas I think it more probable on the north side in the Lands lying between the Tanessee, Ohio, Mississippi and Carolina boundary. These lands belong to the

[1] From *Calendar of Virginia State Papers*, I, 360.

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Chickasaw Indians, who from intelligence which we think may be relied on, have entered into a war with us.

The expenditures of the Illinois have been deemed from some expressions in the act establishing that county not subject to the examination of the board of Auditors. As the auditing these accounts is very foreign to the ordinary office of the Council of State, would employ much of that time and attention which at present is called to objects of more general importance, and as their powers would not enable them to take into consideration the justice and expediency of indemnifying Col. Todd for his losses and services, as desired in the enclosed letter from Him, of the thirteenth instant, they beg leave to submit the whole to the consideration of the General Assembly—

TO THE PRESIDENT OF CONGRESS

(SAMUEL HUNTINGTON.) C. C.

RICHMOND, June 15, 1780.

SIR,—I received your Excellency's letter inclosing a resolution of Congress of the 5th inst. for the establishment of a line of expresses from Cape Henry to Philadelphia. I had before on the request of Gen'l Washington formed such a line from Cape Henry to this place. I therefore thought it better to execute your desire by continuing the line from this place Northwardly, as it would save expence by availing you of what had been done before, and will probably render the conveyances more certain & expeditious than they would be were they to cross the bay to Cape Charles, or to cross James river to Hampton. The uncertainty of the former passage is well known to all; and the latter ferriage is of eighteen miles, which frequently employs a day in the passage. I am forming a like line from this place to the neighbor-

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hood of the enemy's army in Carolina, sending thither a confidential and judicious person to collect & to convey intelligence of their movements and to continue there so long as their operations shall be so very interesting as they are at present. I mention this latter circumstance to your Excellency because before the receipt of your letter I had made it the ground of a suggestion to Gen'l Washington whether it might not be proper (in order to give him the benefit of our Southern communications) to establish such a line from hence Northwardly. Congress having in the meantime desired the establishment of such a line, I am only to submit to them whether when the communication from Cape Henry to this place shall be rendered unnecessary by the arrival of the French fleet, it may not still be expedient to continue for a time the riders from hence to Philadelphia. These riders being stationed at distances not too great for a horse to pass without rest, and being ordered to travel by night & by day without regard to weather, I shall hope will convey intelligence at the rate of 120 miles the twenty-four hours, which is a much greater dispatch than can be expected from the post, should a post be established on this road.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND, June 28, 1780, 9 o'clock P.M.

SIR,—The want of intelligence of the Southern movements of the enemy, and the anxieties we have felt on that account, cannot have been less experienced

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by Congress. Having just now received a state of things as they are at present in that quarter, from Governor Nash, & from Colo. Monroe (the gentleman whom in a former letter I had informed Congress I had sent to hang as near as he could about the enemy's principal post & inform me of their movements by riders posted between us for that purpose) I take for granted Congress will be glad to have it communicated. I therefore have thought the occasion sufficient to set in motion the line of riders established from hence to Philadelphia, with orders to them however to return immediately to their fixt stations, that they may not be out of the way to receive the particular communications for the conveyance of which they have been established.

The embarkation spoken of by Gov'r Nash & Colo. Monroe, cannot have been destined for this state, or they would have been here before this; had they reached our capes by yesterday, I must have known it by this hour.

Governor Nash, at the time of writing his letter seems not to have heard of the motions of our militia. It is certain however that some of them were at Roanoke on the 20th and that the whole have got that far by this time; being 2500 in number.

I have been greatly mortified at the detention of the important supply you had called for, so much longer than I had expected. I had every reason to believe it might have been sent from hence by the 19th. It does not however go off till to-morrow. It will I hope be nearly what I had given you reason to expect in my letter on that subject.

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P. S. The Quarter-master has provisions on board vessels ready to proceed to the Head of Elk, which however he dares not send into our bay, that having been for some time occupied by from seven to eleven privateers, the largest of 20 guns, who take whatever goes out of our rivers. Our provisions when collected whether destined for the Northward or Southward will be effectually blocked up. Land-transportation cannot possibly be procured.

TO GENERAL WASHINGTON. J. MSS.

RICHMOND, July 2d, 1780.

SIR,—I have received from the Committee of Congress at headquarters three letters calling for aids of men & provisions. I beg leave to refer you to my letter to them of this date on those subjects. I thought it necessary however to suggest to you the preparing an arrangement of Officers for the men: for tho' they are to supply our battalions, yet as our whole line officers almost are in captivity I suppose some temporary provision must be made. We cheerfully transfer to you every power which the Executive might exercise on this occasion. As it is possible you may cast your eye on the unre-employed Officers now within the State, I write to Genl. Muhlenburg to send you a return of them. I think the men will be rendezvoused within the present month. The bill indeed for raising them is not actually passed but it is in its last stage, and no opposition to any essential parts of it. I will take care to notify you of its passage.

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I have, with great pain perceived your situation; and the more so as being situated between two fires, a division of sentiment has arisen both in Congress and here, as to which the resources of this Country should be sent. The removal of Genl. Clinton to the Northward must of course have great influence on the determination of this question; & I have no doubt but considerable aids may be drawn hence for your army unless a larger one should be embodied in the South than the force of the Enemy there seems to call for. I have the honour to be with every sentiment of respect and esteem Your Excellency's Most obdt. hble. servt.

TO THE PRESIDENT OF CONGRESS.
(SAMUEL HUNTINGTON.) C. C.

RICHMOND, July 2, 1780.

SIR,—I have received & shall duly comply with the recommendations of Congress for corresponding with their Committee at Headquarters. It having been necessary to lay their & your requisitions before the General Assembly, it has not been within my power to give any effectual answer till within these few days; & now only on the article of provisions. I beg leave to refer you to my letter to them of this date, a copy of which I enclose. The frigates now in our bay will probably retire. Were it possible for you to find means of clearing our bay of the privateers which have for some weeks infested it, we should be ready by the last of this month to send on

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our supplies. I think that Genl. Clinton having carried so considerable a part of the Southern army to the Northward, will leave it in our power, exercising the discretion you have been pleased to leave to us, to send a considerable portion of the grain we shall have to the Northern army, unless a larger force should be embodied in the South than the present strength of the enemy seems to call for. I should conceive that to embody there more than double the number of the enemy would be a waste of exertion both as to men & provisions.

As it is expected our assembly will rise in the course of the present week, I shall then have it in my power to give an answer on the several subjects stated in a late letter from you, by informing you what is, and what is not done, and what also may be expected from the Executive in consequence of any powers the Legislature may vest them with.

TO THE COMMITTEE OF CONGRESS AT HEADQUARTERS. C. C.

RICHMOND, July 2, 1780.

Gentlemen,—I have received three several letters which you did me the honor of writing on the subject of supplies of men & provisions to the grand army. The compliance with these requisitions not lying within the extent of my powers, I immediately laid them before the General assembly then & still sitting. A bill is now passed by them enabling me to call into public use whatever provisions may be spared by our citizens; and this is put into a train

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of execution. I hope it will enable me to furnish the quantity of salted meat called for by Congress, & I think within a short time. Congress have left us to determine whether we can spare any grain to the Northward. It will not be in my power to say whether we can or not until I shall receive a return from those commissioned with the execution of the act, which shall not be till the last of this month. I can assure you of the strongest disposition to contribute everything within our power to aid the Northern operations, but it is necessary to apprise you of one circumstance. Transportation by land has been little practised in this country. We have therefore few waggons, & a great part of these have been lately drawn to the Southward. Transportation by water has been cut off for some time by the privateers which have been constantly cruising in our bay. These have been from six to eleven in number, the largest carrying twenty guns. To them are added at present eight frigates; tho I can scarcely believe these mean to continue. In this situation nothing can venture out of our rivers—The Quartermaster has salted provisions for your army actually laden on board vessels, and a considerable supply of corn ready to send. But we see no prospect of getting it up the bay. The same causes will obstruct our supplies to the Southern army except from those parts of our country bordering on Carolina.

The assembly have before them a bill for supplying by draught 5,000 regulars to serve eighteen months. This I have no doubt will pass. It's exe-

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cution will probably take a month, counting till the general rendezvous of the levies in this country. Hence I fear that should Congress call them Northwardly they will not be ready to co-operate with the main army till late in August.

TO GENERAL EDWARD STEVENS. J. MSS.

RICHMOND, July 19, 1780.

SIR,—I think it proper to inclose you a Paragraph from a late Act of Assembly putting the Militia with you under martial law; it is the only part of the Act which relates at all to the Militia, for which reason I do not send the whole Act, the Clearks being very busy. This Act having been made after the Militia went on duty may perhaps be thought by them to be in the nature of an ex post facto law; but as it is in your power to restrain its penalties from all Acts previous to its promulgation by you and even, if you please, from all subsequent ones except desertion, and such others as you shall find necessary, they may perhaps think it less hard.

TO JAMES MADISON.[1]

RICHMOND, July 26, 1780.

DEAR SIR,—With my letter to the President I enclose a copy of the bill for calling in the paper money now in circulation, being the only copy I have

[1] From a copy courteously furnished by Hon. Elliot Danforth, of Albany.

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been able to get. In my letter to the Delegates, I ask the favor of them to furnish me with authentic advice when the resolutions of Congress shall have been adopted by five other States. In a private letter I may venture to urge great dispatch and to assign the reasons.

The bill on every vote prevailed, but by small majorities; and on one occasion it escaped by two voices only. Its friends are very apprehensive that those who disapprove of it, will be active in the recess of Assembly to produce a general repugnance to it, and to prevail on the Assembly in October to repeal it. They therefore think it of the utmost consequence to get it into a course of execution before the Assembly meets. I have stated in my public letter to you what we shall consider as authentic advice, lest a failure in that article should increase the delay. If you cannot otherwise get copies of the bill, it would be worth while to be at some extraordinary expense to do it.

Some doubt has arisen here to which quarter our 3000 draughts are to go, as Congress directed 5000 militia to be raised and sent to the Southward, including what were ordered there and these 3000 (which I think will be 3500) draughts are raised in lieu of so many militia.

The matter seems clear enough when we consider that a fourth or fifth of the enemy's force are in S. Carolina. It could not be expected that N. Carolina which contains but a tenth of the American militia, should be left to support the Southern War alone,

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more especially when the regular force to the Northward and the expected aids are taken into the scale. I doubt more whether the balance of the 1,900,000 Doll. are meant by Congress to be sent Northwardly, because in a resolution subsequent to the requisition of the sum before mentioned, they seem to appropriate all the monies from Maryland Southward to the Southern military chest. We shall be getting ready the balance in which great disappointments have arisen from an inability to sell our tobacco, and in the meantime wish I could be advised whether it is to go Northward or Southward. The aids of money from the State through the rest of the present year will be small, our taxes being effectually anticipated by certificates issued for want of money and for which the sheriffs are glad to exchange their collections rather than bring them to the Treasury. Congress desired N. Carolina & Virginia to recruit, remount, & equip Washington's & White's horse. The whole has been done by us except as to 200 saddles which the Q. M. expects to get from the Northward. This draws from us about six or seven hundred thousand pounds, the half of which I suppose is so much more than was expected from us. We took on us the whole, because we supposed N. Carolina would be considerably burthened with calls for occasional horse, in the present low state of our Cavalry, and that the disabled horses would be principally to be exchanged there for fresh.

Our troops are in the utmost distress for clothing as are also our Officers. What we are to do with

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the 3000 draughts when they are raised I cannot foresee.

Our new Institution at the College has had a success which has gained it universal applause. Wythe's school is numerous, they hold weekly Courts & Assemblies in the Capitol. The professors join in it, and the young men dispute with elegance, method & learning. This single school by throwing from time to time new hands well principled, & well informed into the legislature, will be of infinite value.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND, July 27. 1780.

SIR,—According to the desire of Congress expressed in their resolutions of the 17th ult. I shall endeavor to inform them what has been done by this state in consequence of the several resolutions there referred to.

1779.

Mar. 9. Recommendation to the States to compleat their respective quotas of 80. battalions.

1780.

Feb. 9. United States to furnish their respective deficiencies of 35,211 men on or before the 1st of Apr.

May 20. The United States to forward their quotas of troops to join the Continental army.

The assembly at their session in May 1779 (being the first after the recommendation of Mar. 9.) desirous not only of furnishing their quota of troops

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then wanting, but to provide permanent means for keeping up the same by voluntary enlistments, passed an act for appointing a recruiting officer to be resident in every county, whose occupation it should be constantly to endeavor to enlist within his county souldiers to serve during the war. That the officer might be industrious he was allowed a premium of 150. paper dollars, then worth 12½ hard dollars for every man he enlisted: that the people within the county might encourage the recruiting service, they were to have credit in any future draughts for all the men their recruiting officer should raise: and the souldier was to receive a bounty of 750 paper dollars, then equal to 62½ hard dollars, the advantage of laying out his pay in the public store, at the hard money prices, and the other usual donations of clothes and lands. These encouragements however did not fully answer our expectations. The assembly therefore at their next session in Oct. 1779 took supplementory measures for raising their quota by endeavoring to re-enlist, for the war, their souldiers whose times of service would expire within the ensuing year. This essay also failed to produce their quota of men, even as settled in the resolutions of Feb. 9. 1780. The Executive therefore immediately ordered nearly the whole of their troops which had been reserved for the particular defence of the state to join the Continental army to the Southward. That some idea may be formed of the proportion of their quota which this addition affected, I beg leave to refer to the inclosed state No. 1. made out from the returns therein re-

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ferred to which have been made to me, their dates being from Oct. 13. 1779 to March 5, 1780, except as to the state troops ordered into service as above, whose numbers are entered as they marched the 2d. of May following. To these may be added something upwards of 300 new recruits there engaged for the war, of whom no return having been regularly made they are not entered. The assembly which met in May of the present year passed one act for sending 2500 militia into the field, which has been carried into execution: and another for raising by way of draught one fifteenth of the whole number of our militia, which after all probable deductions they count as upon 3000. men. These are to serve as regulars till Dec. 31. 1781, and will be rendezvoused about the last of the ensuing month.

1779.

May 21. United States called on for a tax of 45,000,000 D. in addition to what was called for 2d. Jan. to be paid by 1st. Jan. next.

Sep. 13. Circular letter, among other things stating the necessity of paying into the Continental treasury the monies called for & of adopting measures to bring their respective quotas of troops into the field early next campaign & provide for supplies necessary in the course of it.

By the resolution of Jan. 2 and 5. 1779. Virginia was to pay for the year 1779 2,400,000 Doll. = 720,000 £. For the year 1780 1,000,000 [D] = 300,000 [£]. By the resolution of May 21. we were to pay between Feb. 1 & Oct. 1. 7.200.000 [D] = 2.160.000 [£] making in the whole 10.600.000 [D] =

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3.180.000 [£]. I beg leave to refer you to the enclosed No. 2, a very imperfect state of our disbursements for the Continent. Whenever the books of our Auditors shall be put under a proper course of Examination many other articles of expenditure for the Continent will doubtless be found which have escaped the present hasty examination. By this state it appears that we have answered for the Continent since May 21. 1779. 4,404,440–13£ = 13,681,-368⅔ Dollars. There are still very considerable warrants out, which we have assumed; some of them partly unpaid, some wholly so.

1779.

Oct. 6. 7. United States to collect and pay into the Continental treasury their respective quotas of 15,000,000 D. monthly from Jan. inclusive to Octob.

9. Circular letter urging the necessity of a punctual paiment of the quotas.

1780.

Mar. 18. Sundry resolutions for calling in the bills in circulation and emitting new bills on certain funds.

The assembly which was sitting when the resolutions of Oct. 6. 7. came to hand, passed acts for increasing the public taxes and for borrowing money in order to enable them to comply with the requisition of Congress. The subsequent resolutions however of Mar. 18. 1780. as to the same money having rendered it necessary for the assembly to make a corresponding change in their measures, they passed at their late session the inclosed act No. 3, to which I beg leave to refer Congress, and to assure them at

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the same time that the moment I can receive authentic advices that five other States shall have acceded to the resolutions of Mar. 18. this act shall be put into a course of execution.

1780.
May 19. The states from N. Hampshire to Virginia inclusive to pay into the Continental treasury 10,000,000 dollars in thirty days.

This requisition could not be complied with in point of time for reasons explained in my letter to your Excellency of June 30. 1780. With that we sent on in money and bills 1,430,239$\frac{8}{9}$ Dollars. We are still to send on 522,960$\frac{1}{9}$ Dollars to make up our whole quota of 1,953,200 Doll. unless the resolution of June 17 was meant to appropriate this requisition to the supply of the military chest in the Southern department. There is no other balance due from this State whereon that resolution can operate, as will be perceived by my observations on the resolutions of May 21. On this head I pray instructions from Congress.

1779.
Dec. 11. Virginia, Maryland, Delaware, Pennsylvania, N. Jersey & Connecticut certain quantities of flour & corn by 1st. of April.

1780.
Feb. 25. United States to furnish their respective quotas of specific supplies mentioned.

It is not in my power to state with accuracy what is done towards furnishing these supplies. Extensive

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orders have from time to time been given out, which have been carried, and still are carrying into execution; but no returns are made which enable me to say what is precisely done. On receipt of the resolution of Dec. 11. notice was given to the Continental Q. Master that we should be ready to give him orders for the grain which was then coming in under an act of assembly which had laid a specific tax in grain. What would be the amount of this, was not then known. We since find that what we allotted to Continental use amounted to about 80,000 bushels of short forage. Part of this has been received and the rest we are collecting for the Continental Quartermaster & Commissary, to the posts recommended by Genl. Washington. This no doubt is counted in part of the subsequent requisitions of Feb. 25. Large orders are out for the purchase of beeves. Considerable quantities of specifics have been furnished to the troops marching to the Southward. Our endeavors indeed have been much disappointed by the insufficiency of our revenues to answer these, and the calls for money for other purposes. Our ultimate dependance for supplying deficiencies in the articles of meat, flour, salt, short forage & rum, is on the Act No 4. herewith transmitted.

A specific tax in tobacco is paiable on the 31st. day of December next. Of this about 3725 hogsheads were appropriated as a fund whereon to borrow money under the calls of Congress of Oct. 6. & 7. 1779. But another provision for this call being made by the act No. 3. these tobaccos remain unappropri-

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ated & of course free to be applied by the assembly according to the requisitions of Feb. 25. They will have brought in under the same specific tax as much as would make up the residue required. Whether they may think proper to change the appropriation of it for this purpose, or how otherwise they will furnish it is for them to determine.

It would have given me great pleasure to have been able to show Congress that their requisitions had all been complied with in this state accurately in time, quantity & every other circumstance. It will doubtless occur that some of these requisitions were difficult in their nature, that others were new in experiment, and all of them on as large a scale as the people think themselves equal to. In states more compact, experiments, tho' new and difficult, are made with promptitude, their defects soon discovered and readily supplied. In those of greater extent they are carried into execution with less vigor and punctuality, and the time for complying with a requisition expires frequently before it is discovered that the means provided were defective. The time necessary for convening the legislature of such a state adds to the tardiness of the remedy, and the measure itself is so oppressive on the members as to discourage the attempting it, but on the last emergencies. These and other considerations will readily occur to Congress, and will refer to their true causes any inaccuracies which may have occurred in the execution of their desires.

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TO MAJOR-GENERAL HORATIO GATES. J. MSS.

RICHMOND, August 4, 1780.

SIR,—Your several favors of July 19. 21. and 22, are now before me. I have enquired into the state of the Cartouch boxes which were sent from our magazine. The Quartermaster assures me they were in very good order. I must therefore conclude that the 300 complained of by Genl. Stevens were some sent from Petersburg by the Continental Quarter master or that they were pillaged of the leather on the way, to mend shoes &c. We had hopes of getting 2000 from the Board of War, but we got only about 600 and they are said to be unfit for use. We are engaged in making bayonet belts, which shall be forwarded. But it is extremely difficult to procure leather. The consumption of beef by your army will, I hope, remove the want of this article another year. I have ordered the 500 axes you desired with some tomahawks to be made. They turn out about 20 a day. About 100 will go on by the waggons Genl. Stevens sent us, which are now loading at this place. These waggons will carry some ammunition and spirit. A vessel with about 3000 stand of arms coming down the bay for the use of your army, was driven by privateers into Wicomico. We are endeavouring to get them forwarded either by land or water. The want of waggons will greatly retard them. What is to be done for tents, I know not. I am assured that very little duck can be got in this country. Whatever there is however will be produced under a com-

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mission gone out for that purpose. The duck you speak of as being in North Carolina cannot be procured by that state on continental account for the use of the army. I communicated your orders to Colo. Finnie and to Colo. Buford and have directed proper applications for the repairs of the bridges &c you mention. Arms are ready for Bufords, Daviess and Gibsons men. Gibson's men are cloathed and wait only to be paid, which will be done within the course of a week. Clothing has been issued some time for the others, which is making up under the superintendence of Colo. Davies. They are utterly destitute of blankets, and I fear we shall be unable to get any. Brents infantry are but 30. and cannot be sent on without bringing on disagreeable disputes about rank between his officers and Gibsons. To silence these, the march of his men has been countermanded. Colo. Finnie informs me that major Lees infantry has been sent back by special orders. We have ordered 243 horses to be purchased for Colos. White and Washington. The orders to Mr Lewis to purchase beef in Carolina were given by the Continental commissary so long ago as last winter when it was not foreseen there woud be such a call for it in that country. Having no other means of conveying a letter to him, I take the liberty of putting one under cover to you with instructions to him to discontinue his purchases in North Carolina, and to furnish you with so much of the beef he has as you may think necessary. It woud be expedient for you to leave in his hands whatever quantity is not absolutely necessary for your army: as, depending on that, no other provision

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has been made for the post at Charlottesville and you know our country so well as to foresee that a post at which 5000 rations a day are issued cannot be fed by the purchase of the day.

We have reason to believe the French fleet arrived at Newport the 10th ult but it is not certain. Admiral Graves with six sail of the Line is certainly arrived at New York.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND, Sep. 3, 1780.

SIR,—As I know the anxieties you must have felt, since the late misfortune to the South, and our latter accounts have not been quite so favorable as the first, I take the liberty of inclosing you a state of this unlucky affair extracted from letters from General Gates, Genl. Stevens, & Govr. Nash, and taken as to some circumstances from an officer who was in the action. Another army is collecting: this amounted on the 23d ult. to between four & five thousand men consisting of about 500 Maryland regulars, a few of Hamilton's artillery & Porterfield's corps, Armand's legion, such of the fugitive militia as had been reclaimed, and about 3000 N. Caroline militia newly embodied. We are told they will increase these to 8000. Our new recruits will rendezvous in this state between the 10th & 25th inst. We are calling out 2000 militia who I think however will not be got to Hillsborough till the 25th of October. About 350 regulars marched from Chesterfield a week ago; 50 march tomorrow

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and there will be 100 or 150 more from that post when they can be cleared of the hospital. This is as good a view as I can give you of the force we are endeavoring to collect. But they are unarmed. Almost the whole small arms seem to have been lost in the late rout. There are here on their way Southward 3000 stand of arms sent by Congress, and we have a few still remaining in our magazine. I have written pressingly, as the subject well deserves, to Congress, to send us immediate supplies, and to think of forming a magazine here that in case of another disaster we may not be left without all means of opposition.[1]

I inclosed to your Excellency some time ago a resolution of the assembly instructing us to send a

[1] On the same day Jefferson wrote Gates:

"I am extremely mortified at the misfortune incurred in the South and the more so as the Militia of our State concurred so eminently in producing it. We have sent from Chesterfield a week ago 350 regulars, 50 more march tomorrow, and there will be 100 or 150 still to go thence as fast as they come out of the Hospital. Our new recruits begin to rendezvous about the 10th inst. and may all be expected to be in by the 25. We call on 2000 more Militia, who are required to be at Hillsborough by the 25th of Octo. but we have not arms to put into the Hands of these men: There are here going on to you, 3000 stand from Congress. We have about the same number in our Magazine. I trust Congress will aid us. We are desired in general to send you all kinds of Military stores, but I wish you would be so good as to send me a specification of the articles and quantities you most want, because our means of transportation being very limited we may otherwise misemploy even these. Powder, flints, cannon, cannon-ball are the only articles I think we can send. Lead I hope you will get immediately from the mines which will save a vast deal of transportation. Our Treasury is utterly exhausted and cannot again be replenished till the assembly meets in October. We might however furnish considerable Quantities of Provision were it possible to convey it to you. We shall immediately send out an Agent into the Southern Counties to collect and forward all he can. Will Militia Volunteer Horse be of any service to you and how many?"

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quantity of tobo. to No. York for the relief of our officers there, and asking the favor of you to obtain permission. Having received no answer I fear my letter or your answer has miscarried. I therefore now take the liberty of repeating my application to you.

TO GENERAL EDWARD STEVENS. J. MSS.

RICHMOND, Septem. 3rd, 1780.

DEAR SIR,—I sincerely condole with you on our late Misfortune, which sits the heavier on my mind as being produced by my own Country Men. Instead of considering what is past, however, we are to look forward and prepare for the future. I write Genl. Gates and Governor Nash as to Supplies and reinforcements. Another Body of 2000 Militia are ordered to you to rendezvous at Hillsborough, on the 25th October. They come from the middle and North Counties beyond and adjoining the blue Ridge. I am told, also, that a Spirit of raising Volunteers is springing up. The Truth of this however is not Certainly known, nor can its Success be depended on. Governor Nash writes me that 400 Waggons were lost. An officer here however thinks they are not. This indeed would be a heavy loss, as well as that of the small arms. We shall exert every Nerve to assist you in every way in our power, being as we are without any Money in ye Treasury, or any prospect of more till the Assembly meets in Octr.

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TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND, Sep. 3, 1780.

SIR,—It is not in my power to add any circumstance of consequence to those communicated to you by Genl. Gates, & as I suppose to the delegates of N. Caroline by Govr. Nash a letter from whom accompanies this, and I take for granted communicates the later intelligence which he was so kind as to transmit me at the same time. A force is again collected of between four & five thousand men, consisting of the remains of the Maryland brigade, of Porterfield's corps of regulars, Armand's legion, such of the fugitive militia as are a little recovered of their fright, and new corps of N. Carolina militia who have readily embodied themselves. 300 regulars of this state marched from Chesterfield a week ago; about 50 march to-morrow, and there may be 100, or 150 more to go from the same post as soon as they get out of the hospital. Our 3000 new recruits will begin to rendezvous about the 10th inst. and may all be expected to be rendezvoused by the 25th. We have determined to call out also 2000 militia who however cannot be got to Hillsborough sooner than the 25th of October. This is as exact a state of the force we expect to oppose to the enemy as I am able to give. Almost the whole of the small arms having been unfortunately lost in the late defeat, the men proposed for the field will be unarmed, unless it is in your power to furnish arms. Indeed not only a sufficient number is wanting to arm the men now raising,

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but, as our stores will be exhausted in effecting that as far as they will go towards it, it seems indispensable that Congress should form a plentiful magazine of small arms, & other military stores that we may not be left an unarmed prey to the enemy, should our Southern misfortunes be not yet ended. Should any disaster, like the late one, befal that army which is now collecting, and which will be so much weaker in regulars as that brave corps is lessened in the unequal conflict which was put upon them, the consequences will be really tremendous if we be found without arms. With a sufficiency of these, there can be no danger in the end. The losses of our brethren in the mean time may be great, the distresses of individuals in the neighborhood of the war will be cruel, but there can be no doubt of an ultimate recovery of the country. The scene of military operations has been hitherto so distant from these states, that their militia are strangers to the actual presence of danger. Habit alone will enable them to view this with familiarity, to face it without dismay; a habit which must be purchased by calamity, but cannot be purchased too dear. In the acquisition of this, other misfortunes may yet be to be incurred, for which we should be prepared. I am earnestly therefore to sollicit Congress for plentiful supplies of small arms, powder, flints, cartridge boxes, & paper; and to pray that no moment may be lost in forwarding them. Not doubting that the importance of this will be seen in the extent it deserves, I beg leave to subscribe myself with every sentiment of respect & esteem.

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TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND Sep. 6. 1780.

Sir,—Since the dispatches forwarded three days ago I have received others from Genl. Gates which he was pleased to leave open for my perusal and desired they might then be sent on by the line of Expresses. He has therein informed you of the articles he has called on us for, and it may be important that you should know as well what we cannot as what we can do. Of the tents desired we cannot procure a single one, because the stuff is not in our country and we have not money to procure them elsewhere our treasury being entirely exhausted, and no possibility of its being replenished until the meeting of assembly. The articles of sugar & coffee I do not expect to be able to procure. The residue of his requisitions I have hopes may be complied with. I observe he desires provisions from Maryland & I make no doubt they will be necessary. I am only at a loss how they are to be transported; for despairing of our being able to transport to the Southward any of our provisions collected on the North side of James river, I have given orders for sending them to the Northward. I am now apprehensive that this may be wrong, and should really be glad to be advised by Congress what to have done. It will seem inconsistent for our provisions to be going Northward while those of Maryland are passing to the Southward.

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TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND Septr. 8. 1780.

Sir,—On receipt of the resolutions of Congress of June 19, for procuring Horses to remount White's and Washington's Cavalry, we laid the same before the Assembly and were authorized by them to engage the State for payment. We thereon sent out powers to the different Counties to purchase 160 Horses which were properly described in addition to 83, the purchase of which we had before authorized.

That some regard might be paid to œconomy we at first restrained the prices to average not more than £2500—and afterwards £3000 exclusive of incidental expences.—The purchases have not been so soon made as we expected tho' a considerable number have been made and the Gentlemen employed are still going on.—The inclosed Letter from Colo. White complaining of this limitation of price, was not calculated either in its matter or stile to move us to an alteration of our instructions; conscious that our endeavours to reconcile œconomy and the public wants must meet with the approbation of every person who attends at all to the dangers impending over us from circumscribed finances. Your resolution of August 7. which came to hand two or three Days ago and which restrain the allowance for Horses in another instance, tho to be used in a similar way to 100 Dolls hard money equal only to about £2000 at the present exchange have induced a doubt in us whether you

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may chuse that any future purchases for White's and Washington's Cavalry should be made at so high a price as we had authorized and has caused me to trouble you with a Letter desiring your advice on that head.—From the tardy progress made in purchasing at £3000 I must suppose that any considerable reduction would put a stop to them altogether. While it shows that our allowance was not extravagant, the numbers purchased also prove that it was not so frugal as to defeat the purpose.

Your instructions shall be implicitly followed, and will I hope be communicated to me.

P.S. I beg leave to add that measures are taken for clothing and furnishing twelve horses to, Major Nelson's two troops, which are what is wanting to equip them for service. It will be impossible to permit Capt. Read's troop to leave the barracks without giving up all fugitives from the Convention troops.

TO GENERAL EDWARD STEVENS. J. MSS.

RICHMOND Sep. 12. 1780.

SIR,—Your letters of Aug. 27. & 30th. are now before me. The subsequent desertions of your militia have taken away the necessity of answering the question how they shall be armed? On the contrary as there must now be a surplus of arms I am in hopes you will endeavor to reserve them as we have not here a sufficient number by 1500, or 2000 for the men who will march hence, if they march in numbers

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equal to our expectations. I have sent expresses into all the counties from which those militia went requiring the County Lieutenants to exert themselves in taking them; & such is the detestation with which they have been received that I have heard from many counties they were going back of themselves. You will of course hold courts martial on them & make them souldiers for eight months. If you will be so good as to inform me from time to time how many you have we may perhaps get the supernumerary officers in the state to take command of them. By the same opportunities I desired notice to be given to the friends of the few remaining with you that they had lost their clothes and blankets & recommended that they should avail themselves of any good opportunity to send to them.

We approve of your accommodating the hospital with medicines and the Maryland troops with spirits. They really deserve the whole, and I wish we had means of transportation for much greater quantities which we have on hand & cannot convey. This article we could furnish plentifully to you & them. What is to be done for waggons I do not know. We have not now one shilling in the treasury to purchase. We have ordered an active quarter master to go to the Westward & endeavor to purchase on credit, or to impress a hundred waggons & teams. But I really see no prospect of sending you additional supplies till the same waggons return from you which we sent on with the last. I informed you in my last letter we had ordered 2000 militia more to rendezvous

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at Hillsborough on the 25th of Octob. You will judge yourself whether [in the meantime] you can be more useful [by] remaining where you are with the few militia left & coming in, or by returning home where, besides again accommodating yourself [after your losses] you may also aid us in getting those men into motion, and [in] pointing out such things as are within our power and may be useful to the service. And you will act accordingly.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND, Sep. 14. 1780.

SIR,—According to Genl. Gates's request I transmit to your Excellency the inclosed copy of a letter I received from him this morning. That the enemy should meditate taking possession of Portsmouth in the manner they give out does not seem probable, as Sr. Henry Clinton under the present appearances would scarcely consent to spare men from New York; & that they should think of taking possession of it at all seems equally unlikely while it is in the power of our allies to send a superior fleet into Chesapeake bay to which theirs would fall a certain prey. Nevertheless should they in this as in so many other instances, go directly contrary to obvious principles of reason, they would find us in a condition incapable of resistance for want of small arms. Our militia have been long ago disfurnished of their arms for the use of the regulars; and when we shall have armed the 3000 new

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levies now rendezvousing, we shall not have a single musket left in our magazine except a few which have been disabled. I must therefore entreat Congress in the most earnest manner to send all the aid in small arms which can be spared. We are also without a tent for the men who are now rendezvousing, nor does tent-stuff exist in this country. For this article therefore we must also throw ourselves on Congress. I have hopes that by this time the navigation of Chesapeake is made safe by a joint effort of this & the state of Maryland so that any necessaries may be transported through that channel & up James river to this place.

Another circumstance should be previously determined on supposition that an invasion of this state should take place. A spirit of disaffection which had never been suspected, has lately discovered itself in the counties of Washington, Montgomery, Henry & Bedford, and had extended so far as that many hundreds had actually enlisted to serve his Britannic Majesty, had taken oaths of allegiance to him, and had concerted the time of insurrection. The last of the counties above named is within 60 or 70 miles of the Barracks in Albemarle and had always been considered as a barrier to any enterprise on them from the Southward. Other counties equally relied on may fail us in the hour of trial. Should an invasion of this state take place and the progress of the enemy or other circumstances render a removal of the Convention troops necessary, to what place should they be removed? I would beg the instructions of

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Congress on this head & at this time that we may at no future time be at a loss when such a measure shall be rendered necessary.

TO BRIGADIER-GENERAL EDWARD STEVENS. J. MSS.

RICHMOND Sept 15th 1780

SIR,—I beg leave to trouble you with a private letter on a little matter of my own, having no acquaintance at Camp with whom I can take that Liberty. Among the Waggons impressed for the use of your Militia were two of mine. One of these I know is safe having been on its way from hence to Hillsborough at the time of the late Engagement. The other I have reason to believe was on the field. A Waggon Master who says he was near her, informs me the Brigade quarter Master cut out one of my best Horses, & made his Escape on him, and that he saw my Waggoner loosening his own Horse to Come off, but the Enemy's Horse were then Coming up & he knows nothing further. He was a Negro man named Phill lame in one Arm and Legg. If you will do me the favor to enquire what is become of him, what Horses are saved, and to send them to me, I shall be much obliged to you. The Horses &c., were not public property, as they were only impressed & not sold. Perhaps your Certificate of what is lost may be necessary for me. The Waggon Master told me that the publick money was in my waggon, a Circumstance which perhaps may aid your enquiries.

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TO GENERAL WASHINGTON. W. MSS.

RICHMOND Sepr. 23. 1780.

SIR,—I yesterday forwarded a letter to you from Colo. Wood informing you of his situation. That Post has for some time past been pretty regularly supplied, and I hope will continue to be for some time to come. A Person whose punctuality can be relied on offers to contract for victualling it. If we can agree on terms, and the Assembly will strengthen our Hands sufficiently, we think to adopt that method, as the only one to be relied on with certainty. I have heard it hinted that Colo. Wood thinks of quitting that Post; I should be exceedingly sorry indeed were he to do it: he has given those under his charge the most perfect satisfaction, and at the same time used all the cautions which the nature of his charge has required. It is principally owing to his prudence and good temper that the late difficulties have been passed over almost without a murmur. Any influence which your Excellency shall think proper to use for retaining him in his present situation will promote the public Good, and have great tendency to keep up a desirable harmony with the Officers of that Corps. Our new Levies are rendezvousing very generally. Colo. Harrison was uneasy at having none of them assigned to his Corps of Artillery, who have very much distinguished themselves in the late unfortunate action, and are reduced almost to nothing. We happened to have about 400 draughts raised in the last Year and never called out and sent on duty by their County Lieutenants whom we have collected and are collect-

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ing. We think to deliver these to Colo. Harrison; They are to serve 18 months from the time of rendezvous. The numbers of Regulars and Militia ordered from this State into the Southern service are about 7000. I trust we may count that 5500 will actually proceed; but we have arms for three thousand only. If therefore we do not speedily receive a supply from Congress we must countermand a proper number of these Troops. Besides this supply there should certainly be a magazine laid in here to provide against a general loss as well as daily waste. When we deliver out those now in our magazine we shall have sent 7000 stand of our own into the Southern Service in the course of this Summer: We are still more destitute of Clothing, Tents and Waggons for our Troops. The Southern Army suffers for Provision which we could plentifully supply were it possible to find means of transportation: despairing of this we directed very considerable quantities collected on the navigable waters to be sent Northwardly by the Quarter Master; this he is now doing, slowly however. Unapprised of what may be proposed by our Allies to be done with our Fleet in the course of the ensuing Winter, I would beg leave to intimate to you that if it should appear eligible to them that it should winter in the Chesapeake they may be well supplied with Provision, taking their necessary measures in due time before hand. The waters communicating with that Bay furnish easy (and in that case) safe Transportation, and their Money will call forth what is denied to ours.

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I am with all possible esteem & respect your Excellency's most obedt. & most humble servt.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND September 26. 1780.

SIR,—The enclosed Copy of a letter from Ld. Cornwallis to Colo. Balfour was sent me by Govr. Rutledge: lest you should not have seen it I do myself the pleasure of transmitting it, with a letter from Genl. Harrington to Genl. Gates giving information of some late movements of the Enemy.

I was honored yesterday with your favor of the 5th inst. on the subject of Prisoners and particularly Lt. Govr. Hamilton. You are not unapprised of the influence of this Officer with the Indians, his activity, and embittered Zeal against us; You also perhaps know how precarious is our tenure of the Illinois Country, and how critical is the situation of the new Counties on the Ohio. These circumstances determined us to detain Govr. Hamilton & Majr Hay within our Power, when we delivered up the other Prisoners. On a late representation from the People of Kentuckey by a person sent here from that County, & expressions of what they had reason to apprehend from these two Prisoners in the event of their liberation; we assured them they would not be parted with, tho we were giving up our other Prisoners. Lt. Colo Dubuysson aid to Baron de Kalb lately came here on his parole with an offer from Ld Rawdon to exchange him for Hamilton. Colo Towles is now here with a

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like proposition as to himself from Genl. Phillips, very strongly urged by the Genl. These and other overtures do not lessen our opinion of the importance of retaining him; and they have been and will uniformly be rejected. Should the settlement indeed of a Cartel become impracticable without the consent of the States to submit their seperate Prisoners to its obligation, we will give up these two Prisoners, as we would anything rather than be an obstacle to a general good; But no other circumstances would I believe extract them from us. These two gentlemen with a Lt Colo Elligood are the only seperate Prisoners we have retained, & the last only on his own request, & not because we set any store by him. There is indeed a Lt Governor Rocheblawe of Kaskaskie who has broken his parole & gone to N. York, whom we must shortly trouble your Excellency to demand for us as soon as we can forward to you the proper documents. Since the forty Prisoners sent to Winchester as mentioned in my letter of the 9th ult. about 150 more have been sent thither, some of them taken by us at sea, others sent on by Genl Gates.

The exposed and weak state of our western settlements and the danger to which they are subject from the Northern Indians acting under the influence of the British Post at Detroit, render it necessary for us to keep from five to eight hundred men on duty for their defence. This is a great and perpetual expense: Could that post be reduced and retained it would cover all the States to the South-East of it. We

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have long meditated the attempt under the direction of Colo Clarke, but the expense would be so great that whenever we have wished to take it up the circumstance has obliged us to decline it; two different estimates make it amount to two Millions of Pounds, present Money. We could furnish the Men, provisions and I believe every necessary except Powder; had we the Money, or could the demands from us be so far supplied from other quarters as to leave it in our Power to apply such a Sum to that purpose and when once done it would save annual expenditures to a great amount. When I speak of furnishing the men, I mean they should be Militia: such being the popularity of Colo Clarke & the confidence of the western people in him that he could raise the requisite number at any time. We therefore beg leave to refer this matter to yourself to determine whether such an enterprise would not be for the general good, & if you think it would, to authorize it at the general expense; this is become the more reasonable if as I am informed the ratification of the Confederation has been rested on our cession of a part of our western Claims a cession which (speaking my private opinion only) I verily believe will be agreed to if the Quantity demanded be not unreasonably great. Should this proposition be approved it should be immediately made known to us as the season is now coming on at which some of the preparations must be made. The time of execution I think should be at the breaking up of the Ice in the Wabash & before the Lakes open. The interval I am told is considerable.

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TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND Oct. 14. 1780.

SIR,—At the desire of Majr. Genl. Gates I transmit to you the inclosed papers which he put under cover to me. He complains of the arrival of our troops without clothes, tents, or arms at Hilsborough: and desires they may not be sent on at all unless completely equipped with every necessary. This would indeed put an end to the marching a single man there. They go clothed as militia. Few of them carry blankets. Nor shall we be able to furnish tents or arms for more than half of them. However they will go on in hopes of supplies from Congress.

TO MAJOR-GENERAL HORATIO GATES. J. MSS.

RICHMOND Oct 15. 1780.

SIR,—I am rendered not a little anxious by the Paragraph of yours of the 7th Inst., wherein you say "it is near a month since I received any Letter from your Excellency; indeed the receipt of most that I have wrote to you remain unacknowledged." You ought within that time to have received my Letter of September 3d. written immediately on my return to this place after a fortnights Absence.—That of September 11th acknowledging the receipt of yours which covered Draughts for Money; that of Sept. 23d on the Subject of Batteaux at Taylor's Ferry, Waggons, Maps of Virginia, wintering the French Fleet in

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Chesapeake, our new levies, and Provisions from our lower Counties—and that of [Oct. 4] in Answer to yours of Sept 24th. and 27th. I begin to apprehend Treachery in some part of our Chain of Expresses, and beg the favor of you in your next to mention whether any and which of these Letters have not come to hand.

This acknowledges the receipt of yours of Sept. 28. and Oct. 3, 5, and 7th. The first of these was delivered four or five days ago by Capt. Drew. He will be permitted to return as you desire, as we would fulfil your wishes in every point in our power, as well as indulge the Ardor of a good Officer. Our militia from the Western Counties are now on their march to join you. They are fond of the kind of Service in which Colo Morgan is generally engaged, and are made very happy by being informed you intend to put them under him. Such as pass by this place take Muskets in their hands. Those from the Southern Counties beyond the Blue Ridge were advised to carry their Rifles. For those who carry neither Rifles nor Muskets, as well as for our 18 months' Men we shall send on Arms as soon as Waggons can be procured. In the meantime I had hoped that there were Arms for those who should first arrive at Hillsborough, as by Genl. Stevens Return dated at his departure thence there were somewhere between 5 and 800 muskets (I speak from memory not having present Access to the Return) belonging to this State either in the hands of the new Militia who were there or stored. Capt Fauntleroy of the Cavalry, gives me

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hopes he shall immediately forward a very considerable Supply of Accoutrements for White's and Washington's cavalry. He told me yesterday he had received 113 Horses for that Service from us. Besides those, he had rejected sixty odd after we had purchased them, at £3000 apiece. Nelson's two troops were returned to me deficient only 12 Horses, since which 10 have [been] sent to him by Lt Armstead. I am not a little disappointed therefore in the Number of Cavalry fit for Duty as mentioned in the Letter you enclosed me. Your request (as stated in your letter of the 7th) that we will send no men into the field, or even to your camp, that are not well furnished with Shoes, Blankets, and every necessary for immediate service, would amount to a stoppage of every man; as we have it not in our power to furnish them with real necessaries completely. I hope they will be all shod. What proportion will have Blankets I cannot say: we purchase every one which can be found out, and now I begin to have a prospect of furnishing about half of them with Tents as soon as they can be made, and forwarded. As to provisions, our Agent Eaton, of whom I before wrote, informs me in a Letter of the 5th inst he shall immediately get Supplies of Beef into motion and shall send some corn by a circuitous Navigation. But till we receive our Waggons from the Western Country, I cannot hope to aid you in Bread. I expect daily to see Waggons coming in to us. The Militia were ordered to rendezvous at Hillsborough, expecting they would thence be ordered by you into service. I send you herewith a copy of

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Henry's map of Virginia. It is a mere *cento* of blunders. It may serve to give you a general idea of the courses of rivers & positions of counties. We are endeavoring to get you a copy of Fry & Jefferson's; but they are now very scarce. I also enclose you some newspapers in which you will find a detail of Arnold's apostasy & villany. * * *

TO THE PRESIDENT OF CONGRESS.[1]

(SAMUEL HUNTINGTON.) C. C.

IN COUNCIL Oct. 22d. 1780.

SIR,—The inclosed letters which came to hand this morning will inform your Excellency that a Fleet of the Enemy has arrived in our Bay; and that a Debarkation of some light Horse in the Neighbourhood of Portsmouth seems to indicate that as their first Scene of Action. We are endeavouring to collect a Body to oppose them as numerous as the Arms we have will admit. We are obliged of Consequence to divert to this New Object a considerable Part of the Aids we destined for Genl. Gates. We shall not however by any means consider his reinforcement as no longer interesting, but clearly see the Necessity of supporting him with our utmost abilities. We have therefore left part of our country which is more convenient to him uncalled on at present, which with the Proportion of Regulars, Volunteers, and Militia

[1] A letter to Washington, of the same date, is largely a repetition of this. It is printed in Washington's edition, I, 265.

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already with him, or not meant to be diverted will I hope be a seasonable aid. The want of Arms prevents every hope of effectual Opposition. I have perfect Confidence in Congress that this want will be suffered to fetter us not a moment after they can supply it. Generals Weedon and Muhlenburg of the line, and Nelson and Stevens of the Militia are called into Command. Congress will please to consider whether these can be aided by any other Officer of higher Rank and of approved Abilities and Trust. We have come to no determination on the subject of the Convention Troops. Should the Enemy be in force, every circumstance will render their Removal essential. This shall in that case be done as directed by Congress and due notice given to them as well as to Governor Lee.

TO MAJOR-GENERAL HORATIO GATES. C. C.

IN COUNCIL Oct. 22d. 1780.

SIR,—The Letters which accompany this will inform you of the Arrival of a large fleet of the Enemy within our Capes, and that they have begun their Debarkation. We are taking measures to collect a Body to oppose them, for which purpose it seems necessary to retain such Regulars, Volunteers and Militia as have not yet gone on to you. We have left the Counties of Lunenburg, Mecklenburg, Halifax, and all above them on the south Side of James River uncalled on, that they may be in readiness to reinforce you as soon as Arms can be procured. I am in hopes the 18 months' Men and western Militia,

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who will have joined you with the Volunteers from Washington and Montgomery, as proposed by Colo. Preston, and the 18 months Militia, will be a useful reinforcement to you, and shall continue to divide our attention both as to Men and Provisions between the Army in your Front and that which is posting itself within our own Country. * * *

TO THE PRESIDENT OF CONGRESS.
(SAMUEL HUNTINGTON.) C. C.

RICHMOND Octr. 25. 1780.

SIR,—I do myself the pleasure of handing on the the dispatches from General Gates accompanying this.

Since my last informing of you of the appearance of an enemy's fleet they have landed 800 men in the neighbourhood of Portsmouth and some more on the bay side of Princess Anne County. On the 23d. in the morning they landed 1000 infantry and 100 cavalry at Newport's News who immediately took possession of Hampton. The horse were proceeding up the road at the time of our last intelligence. The residue of their force remains still on board. The unarmed state of the people leaves it not in our power to say precisely when one hundred horse will be stopped. The few who have arms have turned out with the greatest alacrity, but they are not of a nature proper to oppose horse. Such a corps as Major Lee's would now be of infinite value to us. Our cartridge paper has been nearly exhausted by the Southern army, and 2000 Cartouch boxes which we had bought

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in Baltimore we have reason to believe were on their way down the bay when the enemy came in and have probably fallen into their hands. The want even of these small articles will be of great disadvantage. The spirit which has shown itself among the people on this occasion has given me the greatest pleasure, but I must notwithstanding assure you Sir that if great supplies of arms are not immediately sent on there is no event which may not be expected.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND October 25. 1780.

SIR,—I take the liberty of inclosing to you Letters from Gov. Hamilton for New York. On some representations received by Colo Towles that an indulgence to Governor Hamilton and his companions to go to New York on parole would produce the happiest effect on the situation of our officers in Long Island we have given him, Majr Hay & some of the same Party at Winchester leave to go there on Parole: The two former go by water, the latter by Land.

By this express I hand on from Genl Gates to Congress intelligence of the capture of Augusta in Georgia with considerable quantities of goods; and information which carries a fair appearance of the taking of George Town in So Carolina by a party of ours, and that an army of 6000 French or Spaniards had landed at Sunbury. This is the more credited as Cornwallis retreated from Charlotte on the 12th inst with great marks of precipitation. * * *

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TO THE PRESIDENT OF CONGRESS.[1]

(SAMUEL HUNTINGTON.) C. C.

RICHMOND Oct. 26th 1780.

SIR,—The Executive of this State think it expedient and necessary that under our present circumstances the prisoners of war under the convention of Saratoga, be removed from their present situation. Many circumstances have led to this necessity. It will be utterly impracticable as long as they remain with us to prevent the hostile army now in this state from being reinforced by numerous desertions from this corps and this expectation may be one among the probable causes of this movement of the enemy. Should moreover a rescue of them be attempted the extensive disaffection which has been lately discovered, and almost total want of arms in the hands of our good people render the success of such an enterprize by no means desperate. The fear of this and of other dangerous convulsions to which such an attempt would expose us, diverts the attention of a very considerable part of our militia from an opposition to the invading enemy. An order has therefore been this day issued to Colo Wood to take immediate measures for their removal, and every aid has been and will be given him for transporting, guarding and subsisting them on the road which our powers can accomplish. Notice hereof is sent by the present conveyance to his Excellency Govr. Lee, on whose part I doubt not necessary preparations for their reception will be made.

[1] A letter to Washington, of the same date and tenor, is printed in Washington's edition, I, 268.

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TO THE VIRGINIA DELEGATES IN CONGRESS. C. C.

RICHMOND Octo. 27. 1780.

GENTLEMEN,—I must beg the favor of you to solicit the sending on to us immediately a good supply of Cartridge Paper & Cartouch Boxes. Nearly the whole of the former article which we had bought at Alexandria, Baltimore &c. and what the Board of War sent from Philadelphia has been made up and forwarded to the Southern Army: there remains now but a few Reams to make up. I fear we have lost 2,000 cartouch Boxes on the Bay which we had made at Baltimore. Our distress for these is also very great. Muskets being really useless without them, I must entreat the greatest dispatch in forwarding these Articles.

A very dangerous Insurrection in Pittsylvania was prevented a few days ago by being discovered three days before it was to take place. The Ringleaders were seized in their Beds.—This dangerous fire is only smothered: When it will break out seems to depend altogether on events. It extends from Montgomery County along our southern boundary to Pittsylvania & Eastward as far as James River: Indeed some suspicions have been raised of its having crept as far as Culpepper. The rest of the state turns out with a spirit and alacrity which makes me perfectly happy. If they had arms there is no effort either of public or private Enemies in this state which would give any apprehensions. Our whole arms are or will be in the hands of the force now assembling.

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Were any disaster to befall these, we have no other resource but a few scattered Squirrel Guns, Rifles &c. in the Hands of the western People.

TO MAJOR-GENERAL HORATIO GATES. J. MSS.

RICHMOND October 28. 1780.

SIR,— * * * Since my first information to you of the arrival of an enemy, they have landed about 800 men near Portsmouth, some on the bay side of Princess Anne one thousand at [Hampton], and still retained considerable part on board their ships. Those at hampton, after committing horrid depredations have again retired to their ships, which, on the evening of the 26th were strung all along the road from Newportsnews to the mouth of Nansemond, which seems to indicate an intention of coming up the James river. Our information is that they have from 4 to 5000 men, commanded by Genl Leslie, & came under convoy of one 40.gun ship and some frigates (how many has never been said) commanded by Commodore Rodney. Would it not be worth while to send out a swift boat from some of the inlets of Carolina to notify the french Admiral that his enemies are in a net if he has leisure to close the mouth of it? Generals Muhlenburg and Nelson are assembling a force to be ready for them, and General Weedon is come to this place where he is at present employed in some arrangements. We have ordered the removal of the Saratoga prisoners that we may have our hands clear for these new Guests.

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TO THE PRESIDENT OF CONGRESS.[1]

(SAMUEL HUNTINGTON.) C. C.

RICHMOND November 3rd. 1780.

SIR,—Since I had the honour of writing to your Excellency on the 25th ult. the enemy have withdrawn their force from the north side of James river, and have taken post at Portsmouth; which we learn they are fortifying; their highest post is Suffolk, where there is a very narrow and defensible pass between Nansemond river & the dismal swamp, which covers the country below from being entered by us. More accurate information of their force than we at first had, gives us reason to suppose them to be from 2500 to 3000 of which between 60 and 70 are cavalry. They are commanded by General Leslie and were convoyed by the Romulus of 40 guns, the Blonde of 32, the Delight sloop of 16, a 20 gun ship of Inc. Goodrichs and two row gallies: commanded by Commodore Gayton. We are not yet as assured that they have landed their whole force, indeed they give out themselves that after drawing the force of this state to Suffolk, they mean to go to Baltimore. Their movements here had induced me to think they came in expectation of meeting with Lord Cornwallis in this country, that his pricipitate retreat has left them without a concerted object, and that they were waiting further orders. Information of this morning says that on being informed of Lord Corn-

[1] A letter to Washington, of the same date and tenor, is printed in Washington's edition, I, 270; and the first paragraph, with slight changes, forms a letter to Gates, dated Nov. 4th.

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wallis's retreat, and a public paper produced to them wherein were printed the several dispatches which brought this intelligence from General Gates, they unladed a vessel and sent her off to Charles Town immediately. The fate of this army of theirs hangs on a very slender naval force indeed.

The want of Barracks at Fort Frederic, as represented by Colo Wood, the difficulty of getting waggons sufficient to move the whole convention troops at once, and the state of unreadiness in which the regiment of guards is have induced us to think that it will be better to remove those troops in two divisions: and as the whole danger of desertion to the enemy and of correspondence with the disaffected in our Southern Counties, is from the British only (for from the Germans we have no apprehensions on either head) we have advised Colo Wood to move on the British in the first division and to leave the Germans in their present situation to form a second division, and to be moved so soon as barracks may be erected at Fort Frederic. By these means the British may march immediately under the guard of Colo Crockets battalion, while Colo Taylor's regiment of guards remain with the Germans. I cannot suppose that this will be deemed such a separation as is provided against by the Convention, nor that their officers will wish to have the whole troops crowded together into barracks, which probably are not sufficient for half of them. Should they however insist on their being kept together, I suppose it would be the opinion that the second division should

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follow the first as closely as possible, and their being exposed to a want of covering would in that case be justly imputable to themselves only. The delay of the second division will lessen the distress for provisions which may perhaps take place on their first going to the new post before matters have got into a regular train.

P. S. By a letter from Colo. Wood received since writing the above, I am informed the British Conventioners are 804 rank & file. He does not mention the present number of the Germans. In May last they were 1503 including officers.

TO MAJOR-GENERAL HORATIO GATES. J. MSS.

RICHMOND November 10th. 1780.

SIR,—Your favour of the third instant inclosing Colo. Preston's letter came to hand on the eighth. The proposals mentioned in the colo's Letter for sending volunteers to you were accepted & put as was necessary into such precise form as that all parties might know what they had a right to expect. In doing this two circumstances happened to interfere with what had been expected. 1. We required that they shou'd be subject to your orders and those of such other officer as you shoud place them under: this was to enable you to make use of them in constituting the corps you had proposed under General Morgan. 2. That there shoud be two companies of rifles only to each battalion: this was the advice of

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Genl. Morgan in a conversation with me. We have since dispensed with the last of these conditions and allowed every man to carry his rifle as we found that absolutely necessary to induce them to go. Colo Skiller of Botetourt writes me he has 150 engaged & we shall endeavour to prevail upon Colo Campbell to raise another corps, in which, if he undertakes it, I trust he will succeed. I am much at a loss what shoud be done as to the prisoners taken at Kings Mountain. I do not think Montgomery Courthouse a good place, because it is very disaffected, it is too near their own country, and would admit their co-operation in any enterprize on our lead mines, which are about eight miles from thence. I have taken measures for continuing their march under a guard northwardly and in the meantime for receiving instructions from Congress where to terminate their journey. The British Convention troops will proceed immediately to Fort Frederick in Maryland. The Germans will remain in Albemarle till accommodations can be provided for them in the same place. From them we have no apprehensions of desertion to the enemy. Some British were taken yesterday who are said to have been with the enemy and were returning to the barracks. Two or three days ago a british emissary from Portsmouth, was taken endeavouring to proceed towards Carolina. On a proposal to search him they observed him to put his hand in his pocket, and put something to his mouth like a quid of tobacco. On examination it was found to be a letter, of which the enclosed is a

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copy, written on silk paper, rolled up in gold beaters skin, and nicely tied at each end, the whole not larger than a goose quill. By this you will find our conjectures verified that they expected to meet with Lord Cornwallis in the neighbourhood at least of this country, & are disappointed and without an object. Can you not take measures for finding out the other messenger to Lord Cornwallis who went by Land? The force we shall now immediately have together authorizes me to assure you, you need not apprehend their penetrating any distance southwardly. I only lament that this measure shou'd have intercepted our reinforcements to you. We have left all the counties south of James river, and nearer to Hillsborough than portsmouth uncalled on that they may be ready to go to the aid of our southern friends whenever arms can be procured.

TO THE PRESIDENT OF CONGRESS.[1]

(SAMUEL HUNTINGTON.) C. C.

RICHMOND November 10. 1780.

SIR,—I inclose your Excellency an intercepted Letter from Major General Leslie to Ld. Cornwallis. It was taken on a person endeavouring to pass through the Country from Portsmouth towards Carolina. When he was apprehended & a proposal made to search him, he readily consented to be searched but at the same time was observed to put his hand in his

[1] A letter to Washington, of the same date and tenor, is in Washington's edition, I, 271.

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Pocket & carry something towards his mouth as if it were a quid of tobacco. It was examined & found to be what is now inclosed. As this is the first authentic disclosure of their purpose in coming here and may serve to found with somewhat more of certainty conjectures of their future movements while their disappointment in not meeting with Ld. Cornwallis may occasion new plans at New York, I thought it worthy of being communicated to your Excy. by express.

Some deserters were yesterday taken, said to be of the British Convention troops who had found means to get to the enemy at Portsmouth & were 70 or 80 miles on their way back to the barracks when they were taken. They were passing under the guise of deserters from Portsmouth.

TO THE DELEGATES OF VIRGINIA IN CONGRESS. C. C.

RICHMD. Novr. 17th 1780.

GENTN,—With respect to the payment made on behalf of Mr. Braxton into the Continental treasury in Part of our Quota of the fifteen Million tax, the Execcutive having been Charged with the raising and remitting that money, we have thought it unnecessary to lay it before the Legislature. The sum to be sent, was sent, partly in Money, and Partly in Bills. These Bills were drawn in *Continental Dollars*, & paible in such, and not in specie. Of this nature was Mr. Braxton's Bill desiring his correspondent to pay so many Continental Dollars into

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the Treasury. If the treasurer has received payment in another kind of money at an arbitrary rate of Exchange, this must have been either under the Rules of his office or against them. The former I can hardly suppose, and in the latter case it has become his own Private act, and he should be deemed to have received (not £1318–15. hard money but) 263750 dollars Continental Money as he has I suppose given a discharge on Bill for so much of its Contents. Had he rejected the Tender of the Hard Money would not Continental dollars have been paid? If they had not, then indeed the demand should have reverted on the State, and we would have fallen on means for compelling payment. We were really concerned on the return of our agent who carried the Money and Bills that he did not have them regularly protested as there appeared some doubts on them. But he acted for the best in his own Judgment, and in that point of view was to be approved. I am exceedingly sorry that this want of Punctuality has a risen in these remittances. We sold Tobo. for these Bills, which would in much less time have produced us money here. But the responsibility and known connection between the drawer & drawee induced us to consider them as even Better than money which wd. have been liable to accidents in transportation. Had a tender of specie been made to us here we would certainly have rejected it. But the payment being now to be transacted between the Drawee & Congress (passing us over) neither the Tender or receipt can be considered

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as our act, but the former the act of the Drawee, and the latter of the treasurer of Congress. We do not therefore think ourselves concerned immediately in this transaction. If Congress please to consider the Payment of the £1318–15 hard money as a discharge of 263.750 dollars paper which was to be paid by the drawee well: if not on rejecting it he will make payment in the specific Money he was call'd on to pay or we will resort to the Drawer, and Compell such payment.

Since writing thus far I note more particularly than I had before done that the treasurers return sais that he had *received from the Commonwealth of Virginia a sum of money in specie* &c. this indeed stating it as the act of this Commonwealth renders it necessary for me to disavow it—which I hereby do. It was the act of the drawee of which the Commonwealth had neither knowledge or Intimation; and this return fixing the act on the Commonwealth instead of the Drawee is so far wrong.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL November 17th 1780.

SIR,—At the request of the Honorable Theoderick Bland I take the liberty of laying before the General Assembly the inclosed paper in which he states a difficulty which has arisen in reconciling his qualifications as a delegate to the peculiar channel into which he had previously turned his private fortune.

From the inclosed extract from a Letter from our Delegates in Congress you will also perceive that they suffer some inconven-

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ience from precarious remittances. Tho this be not within the line of our immediate care we have never been wanting in furnishing such facilities as we were able towards effecting remittances to them. But these we believe have been rendered irregular sometimes by the want of conveyance, & sometimes by the state of the treasury.

TO THE PRESIDENT OF CONGRESS.

(SAMUEL HUNTINGTON.) C. C.

RICHMOND Nov 19. 1780.

SIR,—The vessel which had been sent by Genl. Leslie to Charles town as we supposed, returned about the 12th inst. The enemy began to embark soon after from Portsmouth, and in the night of the 15th. compleated the embarkation of their whole force. In the morning of the 16th. some of our people entered Portsmouth. They had left their works unfinished and undestroyed. Great numbers of negroes who had gone over to them were left either for want of ship-room, or through choice. They had not moved from Elizabeth river at eleven o'clock A.M. of the 16th. They gave out that they intended up James river, but the precipitate abandoning of works on receipt of some communication or other from Charles town, was not likely to be for the purpose of coming up James river. I received this intelligence by express from Genl. Muhlenberg yesterday morning. As the enemy's situation was such as to give reason to expect every moment a movement in some direction, I delayed sending off notice to you in hopes that that movement would point out their destina-

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tion: but no such information being yet come to hand I think it proper no longer to delay communicating to you so much. As our riders will be two days going their distance and returning to their post, it will necessarily be so long before anything further can be communicated.

By a letter from Govr. Nash dated Newbern Nov. 5. I am informed that on the 28th. ult. a Capt Howell of that place in a small privateer passed in the night off Charles town a very large fleet, but of what nation he knew not. In a vessel he took the same day directly out of Charles town were South Carolina gazettes which mentioned this fleet, & that they had for several days been off firing signal guns. A gentleman on board her said Ld. Cornwallis returned to town that day. This is the only intelligence I have received from the Southward since that of Ferguson's defeat which I had the honor of forwarding to your Excellency.

Since writing so far I have received the inclosed dispatches from the Southward. The moment the enemy leave us I hope a good reinforcement may march from their present encampment to the Southerd.

TO MAJOR-GENERAL HORATIO GATES. J. MSS.

RICHMOND Nov 19. 1780.

SIR,— * * * Since writing so far your favor of the 8th inst comes to hand, accompanied by one from Genl Stevens at Hillsborough of the 10th. A strange

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derangement indeed our riders have got into to be 9 days coming from Hillsborough. I shall be very happy if the departure of the enemy, which I hourly expect to have confirmed, shall leave us at liberty to send you a substantial reinforcement. The men being now in the field may be marched directly Southwardly. What may be it's precise amount I cannot say till I get from Genl Muhlenburg a return of the 18 months' men the 8 months men & militia, who had been stopped here on their way to the Southward, and from Genl Lawson a return of the volunteers he has engaged to go to the Southward.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

[Nov. 23. 1780.]

SIR,—There is reason to believe that the appointment of a Consul to reside in this State on the part of his most Christian majesty either has been already or will shortly be made. I must submit to the general assembly the expediency of considering whether our laws have settled with precision the prerogatives and jurisdiction to which such a person is entitled by the usage of Nations: and putting the Office on the footing they wou'd wish it to rest.—The enclosed memorial from a subject of the same prince is also perhaps worthy the attention of the assembly. The expediting judiciary proceedings wherein foreigners are concerned, who come to make only a short stay among us, seems expedient for the preservation of a good understanding with them and for the encouragement of Commerce. The Executive received from Congress some time ago copies of the several proceedings which had taken place between a subject of the Crown of Portugal and the Commander of an American privateer; a part owner of the privateer being a Citizen of this State. They

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were accompanied by some resolutions of Congress desiring that the executive would so far interpose as to have reparation made to the foreigner whose vessel had been taken, pyratically as they suppose, and to have the Offenders proceeded against criminally. The case with all the documents transmitted was submitted to the Attorney General for his opinion which he has lately given us, and I now inclose it. From that you will perceive that if the act complained of were piracy or should any future act of piracy be committed by any of our Citizens there is no judicature within this state before which it could be tried. Whether the establishment of such a judicature may not be necessary for the preservation of peace with foreign nations is now submitted to the legislature.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.[1]

(BENJAMIN HARRISON.)

Nov. 24th, 1780.

SIR,—I received yesterday evening a letter from General Nelson dated Rich neck November 22nd. at half after five P. M. including a note by which we learn that the vessels of the enemy were all under way except one which was getting under way, and the whole standing out for the Capes. This event tho' relieving us in a certain degree by opening again the door of our commerce and also by putting it in our power to avail ourselves of the whole resources of our country, seems yet to call for an increase rather than abatement of military preparations. Should those now leaving us proceed to enforce the hostile army already in the south; shou'd the same be the object of a new embarcation said on good authority to be preparing in New York; we shall but to probably and speedily see our own retreating enemy treading back their footsteps and menacing this country with a force to which the southern states have yet seen nothing equal. South Carolina & Georgia we are to consider as weighing nothing *in our scale*. N. Carolina has been exhausted by the ravages of two

[1] From the original in the possession of Dr. Thomas Addis Emmet, of New York.

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armies. On this state therefore rests the weight of the opposition, and it is infinitely important that our own efforts be such as to keep the war from our own country, nor does it seem that we have a moment to lose should the enemy be disposed to lose no time on their part. Men to form a permanent army, clothing, covering, arms, subsistance, transportation and money are to be provided. We have left no measures unessayed for procuring supplies of these different kinds as far as the circumstances of our country would admit. Of tents we have a tolerable prospect, and better hopes of supplies of arms than we some time ago entertained. We shall press them forward with unremitting endeavors. Our country affords sufficient substance and we are in train of obtaining it so far as the late powers given by the Legislation extend, and the advanced season of the year permits. But these went to one or two articles only. Clothing, blankets, and transportation are objects of immense difficulty, and money is necessary to set every wheel in action.

I thought it my duty as soon as the motives of the enemy indicated the point to which our efforts would probably be called to suggest to the general assembly these several matters, not doubting but that they will give them all the attention they deserve and adopt such measures as in their wisdom shall appear best calculated for making effective opposition wherever the enemy may think proper to shew themselves. The inclosed papers on the same subject from Major Genl. Green appointed to take command of the southern army, I beg leave to lay before the General Assembly, and am with every sentiment of esteem and respect, sir, your most obedient and humble servant.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND November 26th, 1780.

SIR,—I have been honoured with your Excellency's Letter of the 8th instant. Having found it impracticable to move suddenly the whole Convention troops,

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british and germans, and it being represented that there coud not immediately be covering provided for them all at fort Frederic we concluded to march off the British first from whom was the principal danger of desertion and to permit the germans who shew little disposition to join the enemy to remain in their present quarters till something further be done. The British accordingly marched the 20th instant, they cross the blue ridge at Rock fish gap and proceed along that valley. I am to appraise your Excellency that the Officers of every rank both British and german but particularly the former have purchased within this State some of the finest horses in it. You will be pleased to determine whether it will be proper that they carry them within their Lines. I believe the Convention of Saratoga entitles them to keep the horses they then had: but I presume none of the Line below the rank of field officers had a horse. Considering that the british will be now at fort frederick, and the Germans in Albemarle, Alexandria seems to be the most central point to which there is navigation. Would it not therefore be better that the flag vessel solicited by Genl Phillips should go to that place? It is about equally distant from the two posts. The roads to Albemarle are good. I know not how those are which lead to fort frederick. Your letter referring me to General Green for the mode of constructing light portable boats unfortunately did not come to hand till he had left us. We had before determined to have something done in that way, and as they are still unexecuted, we shoud

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be greatly obliged by any draughts or hints which could be given by any body within the reach of your Excellency.

I received advice that on the 22d instant, the enemy's fleet got all under way and were standing towards the Capes. As it still remained undecided whether they woud leave the bay or turn up it, I waited the next stage of information that you might so far be enabled to judge of their destination. This I hourly expected, but it did not come till this evening when I am informed they all got out to sea in the night of the 22d. What course they steered afterwards is not known. I must do their General and Commodore the justice to say that in every case to which their influence or attention could reach as far as I have been well informed, their conduct was such as does them the greatest honor In the few instances of unnecessary and wanton devastation which took place they punished the aggressors.

TO BRIGADIER-GENERAL EDWARD STEVENS. J. MSS.

RICHMOND November 26, 1780.

SIR,—The Enemy which lately invaded us left our Capes in the Night of the 22d Instant, what course they steered afterwards is not known. Another Fleet of Transports under the Command of Admiral Rodney fell down to the Hook on the 11th Instant. As this as well as the Fleet which lately left us is destined for Charles Town we shall March from their present Encampments all the forces who are so equipped as that

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they can proceed to distant Service. With them will go on between three & Four Hundred Tents belonging to this State. Three Hundred more are on the Road from Philadelphia and as many to follow. As Baron Steuben remains here to organize our forces I shall be obliged by special Returns of the 18 Months Men 8 months Men, & three months Militia which have or shall Come unto you as frequently as convenient. The Assembly being now met will shortly I hope furnish us with Money so that we may be once more able to send Supplies to the Southward We have Collected here at length, by impress principles, about thirty Waggons which have been delivered to the Continental Q-M. to be sent on with stores to Taylors Ferry.

TO LIEUT. JOHN LOUIS DE UNGER.[1] J. MSS.

RICHMOND Nov 30. 1780.

SIR,—The letter which covers this being of a public nature I wished separately to acknowlege the many things personally obliging to me expressed in your two letters. The very small amusements which it has been in my power to furnish in order to lighten some of your heavy hours by no means merited the acknowlegment you make. Their impression must be ascribed to your extreme sensibility rather than to their own weight. My wishes for your happiness give me participation in your joy at being exchanged sensibly however alloyed by a presentiment of the

[1] One of the Convention prisoners, in Albemarle.

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loss I shall sustain when I shall again be permitted to withdraw to that scene of quiet retirement abstracted from which I know no happiness in this world. Your line of life must have given you attachments to objects of a very different nature. When the course of events shall have removed you to distant scenes of action where laurels not tarnished with the blood of my country may be gathered, I shall urge sincere prayers for your obtaining every honor & preferment which may gladden the heart of a souldier. On the other hand should your fondness for philosophy resume it's merited ascendancy, is it impossible to hope that this unexplored country may tempt your residence by holding out materials wherewith to build a fame founded on the happiness & not the calamities of human nature? Be this as it may whether philosopher or souldier, I wish you many felicities.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.
(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL December 11 1780.

SIR,—At the request of Major General Baron de Steuben, I take the liberty of transmitting to you his letter and observations on the cautions he thinks necessary to be observed on the raising future recruits. I think it my duty also to mention to the General Assembly that I have received information from him that a very considerable proportion of the new levies raised under an act of the last session of Assembly and now at Chesterfield are totally unfit for service, where much fatigue and hardship is to be endured, being old men, boys or decrepid: and for this reason he means to decline continuing them in Continental service and to return them to the State.

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Supposing that every intelligence which may tend to discover to the General Assembly the future determination of our enemies as to the conduct of the war against us may be acceptable, I beg leave to communicate to them the inclosed extract of a Letter I have received from William Lee esquire. It will be a very happy circumstance if the force intended to oppose their armies in the south can be brought into the field in time to find them embarrassed & retarded with the difficulties of subsistance and transportation through the inland country. Once advanced to a navigable water the communications by sea will relieve them from much incumbrance and in a great measure ensure them from capital disaster. The proposals herewith transmitted for raising a standing body of forces for the defence of this state requiring conditions beyond the powers of the Executive I beg leave to submit them to the wisdom of the General Assembly.

TO GENERAL WASHINGTON. J. MSS.

RICHMOND Dec: 15th, 1780.

SIR,—I had the honor of writing to your Excellency on the subject of an expedition contemplated by this State against the British post at Detroit and of receiving your answer of Oct: 10th. Since the date of my letter the face of things has so far changed as to leave it no longer optional in us to attempt or decline the expedition but compels us to decide in the affirmative and to begin our preparations immediately. The army the Enemy at present have in the South, the reinforcements still expected there, and their determination to direct their future exertions to that quarter, are not unknown to you. The regular force proposed on our part to counteract those exertions is such either from the real or supposed inability of this

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State as by no means to allow a hope that it may be effectual. It is therefore to be expected that the scene of war will either be within our country or very nearly advanced to it and that our principal dependance is to be on militia, for which reason it becomes incumbent to keep as great a proportion of our people as possible free to act in that quarter. In the meantime a Combination is forming in the westward which if not diverted will call thither a principal & most valuable part of our militia. From intelligence received we have reason to expect that a confederacy of British & Indians to the amount of 2000 men is formed for the purpose of spreading destruction & dismay thro' the whole extent of our frontier in the ensuing Spring. Should this take place we shall certainly lose in the South all aids of militia beyond the blue ridge besides the inhabitants who must fall a sacrifice in the course of the savage irruptions. There seems to be but one method of preventing this which is to give the Western enemy employment in their own country. The regular force Colo: Clarke already has with a proper draught from the militia beyond the Alleghany & that of three or four of our most northern counties will be adequate to the reduction of fort Detroit in the opinion of Colo: Clarke and he assigns the most probable reasons for that opinion. We have therefore determined to undertake & commit it to his direction. Whether the expence of the enterprise shall be at continent or state expence we will leave to be decided hereafter by Congress in whose justice we can confide as to the determination. In the mean

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time we only ask the loan of such necessaries as being already at Fort Pitt will save time and an immense expence of transportation.

these are
4 field pieces 6 pounders
3000 balls suited to them
one Mortar
3000 shells suited to it
2 h^{rs}
Grape shot
necessary implements and furniture for the above.
1000 Spades
200 pick axes
1. travelling forge.

Some boats ready made should we not have enough prepared in time

Some Ships carpenter tools.

These articles shall either be identically or specifically returned, should we prove successful it is not improbable they may be where Congress would chuse to keep them. I am therefore to solicit your Excellency's order to the Commandant of fort Pitt for the above articles which shall not be called for until everything is in readiness, after which there can be no danger of their being wanted for the post at which they are: Indeed there are few of the articles essential for the defence of the post.

I hope your Excellency will think yourself justified in lending us this aid without awaiting the effect of an application elsewhere as such a delay would render the undertaking abortive by postponing it to the

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breaking up of the ice in the lake. Independent of the favourable effects which a successful enterprise against Detroit must produce to the United States in general by keeping in quiet the frontier of the Northern ones, and leaving our western militia at liberty to aid those of the South, we think the like friendly office performed by us to the States whenever desired and almost to the absolute exhausture of our own magazines give well founded hopes that we may be accommodated on this occasion. The supplies of military Stores which have been furnished by us to Fort Pitt itself, to the northern army, & most of all to the Southern are not altogether unknown to you. I am the more urgent for an immediate order because Colo: Clarke awaits here your Excellency's answer by the express, tho his presence in the Western Country to make preparations for the expedition is so very necessary if you enable him to undertake it. To the above I must add a request to you to send for us to Pittsburg persons proper to work the mortars &c. as Colo: Clarke has none such nor is there one in this State. They shall be in the pay of this State from the time they leave you. Any money necessary for their journey shall be repaid at Pittsburg without fail by the first of March.

At the desire of the Genl Assembly I take the liberty of transmitting to you the enclosed resolution. And have the honour to be with the most perfect esteem & regard your Excellency's most obed & most hble servt.

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TO MAJOR WALL.[1]

December 21st, 1780.

SIR,—I laid before the Council the Rev. Mr. Fanning's letter to Mr. Tazewell together with the Letters and other Papers found on Mr. Wickham—The general expextations of remaining in this country, with which the enemy (and probably) this young gentleman came into it, the political character of the Gentleman under whose auspices he came, his not leaving the Enemy 'till they were obliged to retire, and the complexion of his own Journals and Letters, are circumstances which place him, in their Belief, among the Enemies of this Country. Nothing appears which even leads to a suspicion that a Difference in political sentiment was among the motives which led him from his connections with the Enemy to seek a union with this Country. The manner of his effecting his Transition from the one Party to the other, was not likely to produce any other than a hostile Reception—he becomes an Enemy from an Enemy, in the midst of our Country, with arms in their Hands, attempts to pass without application to, or Leave from, any officer civil or military, and to bear Letters, negotiating an Interview between an officer high in the adverse command, and citizens of this State. Under these unfavourable circumstances, the Board cannot but deem him an Enemy, and (being within our Power) a Prisoner of War—They are at the same time as thoroughly satisfied of the decided principles of Whigism which have distin-

[1] From *Calendar of Virginia State Papers*, II, 205.

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guished the character of the Rev. Mr. Fanning, that they shall think this young Gentleman perfectly safe under his care, so long as he stays in this State; to him, therefore, they remit him until a flag, daily expected from New York into Potowmack River, shall be returning to that Place, when they shall expect him to take his passage back, first calling on the Commissioner of the War Office to give a Proper Parole.

TO ——— ?[1]

IN COUNCIL December 21, 1780.

SIR,—I have received authority from the Legislature to provide cloathing and blankets for the troops by seizing the same which will be accompanied by endeavours to purchase. Agents are out procuring salted beef and others setting out to procure pork in as large quantities as they are to be had to be stored on the Roanoke and its navigable waters. Ten thousand barrels of flour will certainly be provided, the number of waggons which have been delivered to the Continental Q. M. since the date of Gen Gates' requisition I have not yet been able to procure a return of, nor the quantities of spirits delivered to the continental commissary, considerable deliveries of both articles have been made. Any other measures which may have been taken by the Assembly for further compliance with the requisitions of Genl. Green are yet uncommunicated to me, as arms were never among the requisitions made by

[1] From the *Historical Magazine*, XIV, 244.

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Congress on the several states, this state never supposed it would be expected they should provide that article for their quota of Continental troops, they have only had in view to procure from time to time so many as might arm their militia when necessity required the calling them into service, from this stock they have furnished arms for Continental use till it is so reduced that they have not the smallest prospect of being able from the State magazines to spare as many as will arm their new Continental Levies.

TO THE COUNTY LIEUTENANTS OF HAMPSHIRE AND BERKELEY. V. S. A.

RICHMOND. December 24. 1780.

SIR,—A powerful army forming by our enemies in the south, & an extensive combination of savages in the west will probably render the ensuing campaign exceedingly active, and particularly call forth all the exertions of this State, it is our duty to look forward in time and to make a proper division of our force between these two objects: there seems but one method of preventing the savages from spreading slaughter and desolation over our whole frontier, and that is by carrying the war into their own country: and to render even this measure effectual our movements must be so early as to be beforehand with them: Your County is allotted to the Western defence: you will therefore be pleased to send of your militia under proper officers by the way of pittsburg to the falls of Ohio to join under Colo Clarke in an expedition over that river and to continue in service during the expedition as to which Colo Clarke is instructed in from hence. They must be at pittsburg precisely by the first of March. They are to be subsisted on the way by such commissary as you shall appoint who is to act as Quarter Master both offices to cease when he shall have conducted the militia to Pittsburg. I

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send him for the purpose of fulfilling the duties of these two offices [1] pounds which however I consider as principally to be expended in victualling the men as the baggage they take with them must be very trifling should it indeed be otherwise they will certainly lose it as the means of transportation will become less & less during their tour. Let every man go well armed, and with such arms as suit the Western service. I must desire you to keep up a constant correspondence with Colo Clarke til you shall have marched your men having fixed myself the number of men you are to furnish every other instruction I give you herein is submitted to any alterations he shall find necessary.

TO ROWLAND MADISON. V. S. A.

RICHMOND. December 24th. 1780.

SIR,—It being found necessary to undertake an expedition into the Country beyond the Ohio, you are desired to apply for and receive from Mr Callaway of New London under the order inclosed one thousand wt of good musket or rifle powder and to conduct the same to Montgomery Court house. You are also to apply for and receive fifteen wt of lead from the manager of the lead mines under an order likewise inclosed and to convey it to the same place. You are moreover to act as Quarter Master & commissary for the militia from Green Brier one hundred and thirty seven in number who are ordered to rendezvous at Montgomery court house by the 20th day of february next and to proceed thence with them to the falls of Ohio. You will therefore provide subsistence for them & forage necessary for the march,

[1] Jefferson writes below:

Hampshire 255 militia £25,000
Berkeley 275 " 30,000

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and are hereby authorized to call on any commissioners of the provision Law or commissaries having public provisions in their hands to furnish you. You are moreover desired to purchase three hundred pack horses, pack saddles, halters & bells, which may serve to carry the ammunition before mentioned, provisions and the baggage of the men to the falls of Ohio where the whole will be received by Colo Clarke and your office determined. We expect you will purchase these horses for £1500 a piece, tho aware of this necessity for purchasing them, we do not limit you absolutely in price, but rely on your discretion to get them as cheap as you can. For these several purposes you receive £500,000—take great care to obtain such authority and protection from the commanding officer of the militia that your horses may not be subject to be rode or unnecessarily burthened, and that you may be able to deliver them in good condition at the falls of Ohio. I am to warn you to use the greatest expedition in performing these several duties, and to see that you be in readiness with every thing required of you at Montgomery court house by the 20th day of· february as a failure on your part will inevitably defeat the whole design. Your accounts are to be finally settled with the board of auditors.

TO BRIGADIER-GENERAL GEORGE ROGERS CLARK.

V. S. A.

RICHMOND. december 25th 1780.

SIR,—A powerful army forming by our enemies in the South renders it necessary for us to reserve as

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much of our militia as possible free to act in that quarter. At the same time we have reason to believe that a very extensive combination of British & indian savages is preparing to invest our western frontier to prevent the cruel murders and devastations which attend the latter species of war, and at the same time to prevent its producing a powerful diversion of our force from the southern quarter in which they mean to make their principal effort and where alone success can be decisive of their ultimate object, it becomes necessary that we aim the first stroke in the western country and throw the enemy under the embarrassments of a defensive war rather than labor under them ourselves. We have therefore determined that an expedition shall be undertaken under your command at a very early season of the approaching year into the hostile country beyond the Ohio, the principal object of which is to be the reduction of the British post at Detroit and incidental to it the acquiring possession of Lake Erie. The force destined for this enterprise is the Ilinois battalion, Colo Crocket's battalion, Maj Slaughter's corps, with detachments of militia from the Counties of Fayette, Lincoln, Jefferson, Ohio, Monongalia, Hampshire, Berkeley, Frederic and Greenbrier making in the whole 2000 men. necessary garrisons only to be deducted. Our desire is that the execution of this may be so timed as that you may have the advantage of that interval of time which intervenes between the breaking up of the ice in the Wabache and in the lake so as that you may avail yourself of the navigation of the former the moment it is open for the transportation of your

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men and baggage and still find the latter blocked up and the vesels of the enemy therein of course liable to be destroyed. That you may be fully possessed of the means which are to be in your hands for the purposes beforementioned, you are furnished with copies of the orders given to the Lieutenants, Commissaries & Quarter Masters in the Counties before mentioned. The substance of them is as follows—Mr. Roland Madison is employed to carry 1000 of rifle powder from New-London and 1500 lbs of lead from the lead mines to Montgomery Court house. To purchase 300 pack horses with pack saddles, Halters and Bells ready and to lay in subsistence for them and 137 militia from Greenbrier County, who by orders given to the Lieutenant of that County are to rendezvous at Montgomery Court House by the 20th of February, these to take under their escort the ammunition and pack horses beforementioned and to be with them at the falls of Ohio by the 15th day of March. Mr. Madison is furnished with money to purchase the horses and furniture and to lay in subsistence and forage from Montgomery Court House to the falls of Ohio where his duties cease.

Forty bell tents, 40 common tents, a chest of medicine, some summer clothing will be sent from this place; 1000 lb of Rifle powder from Staunton, 400 campkettles from Fredericksburg to the County Lieutenant of Frederick, who is ordered to send them with 285 of his militia to Pittsburg at which place they are to be the first day of March.

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The County Lieutenants of Berkeley and Hampshire are ordered to send the former 275 and the latter 255 of their respective militias to be at Pittsburg by the first day of March. Proper instructions are prepared for such persons as each of the county Lieutenants of Frederick, Berkeley & Hampshire shall appoint to act in the joint offices of Commissary and Quarter Master to Pittsburg where their offices determine, and money is sent to each for the purposes of subsistence and transportation.

The County Lieutenants of Monongalia and Ohio are ordered to rendezvous one fourth of their militia at Pittsburg by the first day of March. All these militia are ordered to go under proper officers well armed with Arms suitable to western service and to serve during the continuance of the expedition as herein described. Colo Crocket is ordered to be with his battalion at Pittsburg by the same day and money to enable him to proceed is sent to him.

An agent is sent to Baltimore and Philadelphia to purchase four tons of canon powder and to send it to Pittsburg by the 1st day of March.

Application is made to Genl Washington to lend us of the Continental stores at Pittsburg 4 canon six pounders mounted on field carriages with ball suitable, a mortar with shells, 2 Howitz, grape shot and other necessary furnitures, 1000 spades, 200 pick axes, 500 axes, a travelling forge, ship carpenter's tools, and boats for transportation down the river should we fail in having a sufficient number in readiness and to send us skilful persons to manage the mortars.

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John Francis Moore, who was some time ago sent to purchase in the vicinities of Fort Pitt provisions for the Western Posts, is now ordered to extend his purchases to 200,000 rations of beef and flour, and to provide 100 light Barges fit for transporting men and stores either down or up stream. These to be all in readiness by the 1st of March as we are not certain whether he may not be gone down the river, these powers were directed to himself, or in case of his absence to any Agent he should have appointed, and if he appointed none, then to Mr William Harrison of Monongalia.

At Pittsburg we depend on orders to be given by you for the removal of men and stores to the Falls of Ohio by the 15 of March.

The County Lieutenants of Fayette, Lincoln and Jefferson are ordered to rendezvous at the falls of Ohio by the 15 of March 500 of their militia to be furnished between those Counties in Proportion to their numbers & have ready at the same place and by the same day 50 canoes each: Money is sent to pay for these. In those counties you inform us you expect 10000 rations will be provided for you, you will of course order them to the falls of Ohio.

All the preceding orders (except as to the number of men from each county) are submitted to any alterations you may think necessary, and you are authorized to supply any deficiencies in them. The Staff Officers are submitted absolutely to you, and on removal of any of them by you or their death, resignation or declining to act you are to appoint others. The County Lieutenants are desired to keep up a

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constant correspondence with you & the Staff Officers to inform you from time to time of their progress and to receive your orders. Thus you will perceive that we expect all to be in readiness at the Falls of Ohio by the 15th of March.

What number of men and whether of Regulars or Militia you shall leave to garrison the Posts at the falls & Mouth of the Ohio is left to yourself. As the latter however is exposed to attack from an enemy against whom this expedition will be no diversion of force, and as it is distant from succour, it is recommended to you to leave it surely garrisoned and to take measures for its being supported from the Spanish side of the Mississippi should it be necessary.

You will then with such part of your force as you shall not leave in garrison proceed down the Ohio and up the Wabache or along such other route as you shall think best against Detroit. By the construction of a fort or forts for retreat at such place or places as you shall think best, and by such other cautions as you find necessary you will provide for the ultimate safety of your men in case of a repulse. Should you succeed in the reduction of fort Detroit and a hopeful prospect open to you of acquiring possession of Lake Erie, or should such prospect open during the investiture of the fort you are to pursue it. As soon as you have accomplished both objects of the fort and lake, or shall have accomplished the one and find the other impracticable, or as soon as you shall find that neither is practicable,

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you are to consider your expedition as ended and to withdraw your whole force. If you attain neither object, or, if you acquire one or both of them, to retain for a garrison at Detroit so many of the Illinois & Crocket's battalions as you may think necessary and to send the rest back across the Ohio; in the event indeed of declining to attempt the reduction of Detroit you are at liberty to consider whether some enterprise against the hostile nations of Indians may not be undertaken with your force, and if you think it can, and that it will be expedient for the public good, and eligible on view of all circumstances you will undertake it and detain your force until you shall have finished it: In every event, the militia on their return are to be marched back to their Counties under their own officers and there to be discharged.

Should you succeed in the reduction of the Post, you are to promise protection to the Persons & property of the French and American inhabitants, or of such at least as shall not on tender refuse to take the Oath of fidelity to the Commonwealth. You are to permit them to continue under the laws & form of Government under which they at present live, only substituting the authority of this Commonwealth in all instances in lieu of that of his British Majesty, and exercising yourself under that authority till further order those powers which the British Commandant of the Post or his principal in Canada hath used regularly to exercise. To the Indian neighbours you will hold out either fear or friendship as their

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disposition and your actual situation may render most expedient.

Finally, our distance from the scene of action, the impossibility of foreseeing the many circumstances which may render proper a change of plan or direction of object, and above all our full confidence in your bravery, discretion & abilities induce us to submit the whole of our instructions to your own judgment, to be altered or abandoned whenever any event shall turn up which may appear to you to render such alteration or abandonment necessary: remembering that we confide to you the persons of our Troops & Citizens which we think it a duty to risque as long as & no longer than the object and prospect of attaining it may seem worthy to risque. If that Post be reduced we shall be quiet in future on our frontier and thereby immense Treasures of blood and money be saved: we shall be at leisure to turn our whole force to the rescue of our eastern Country from subjugation; we shall divert through our own Country a branch of commerce which the European States have thought worthy of the most important struggles and sacrifices, and in the event of peace on terms which have been contemplated by some powers we shall form to the American union a barrier against the dangerous extension of the British Province of Canada and add to the Empire of liberty an extensive and futile country, thereby converting dangerous enemies into valuable Friends.

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TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL Dec. 29. 1780.

Sir,—The inclosed resolution of Congress came to hand yesterday. As it is on the same subject with the resolution of assembly of 23d. Decr. I beg leave to lay it before them. That the assembly may be informed of the footing on which this matter stood at the time of their resolution I beg leave to inclose to them an abstract from my letter to Colo. Wood giving a general order for the removal of the whole Convention troops, and a second one which for reasons strongly urged by him suspended the removal of the Germans for a time. These measures when taken were duly communicated to Congress & to Governor Lee and were approved of by Congress.

What circumstances may have induced an alteration in their opinion I am uninformed. I conjecture however that some difficulty on the subject of provisions has arisen; for by a Letter from the board of war which came to hand with this resolution we are called on to furnish half the provisions necessary for that part of the Conventioners who are gone on, & to transport this to Frederic town in Maryland. Against this I mean to remonstrate and have no doubt of satisfying Congress that this requisition has been too hastily adopted. But I should be glad to be advised by the assembly how to conduct myself should the inclosed resolution of Congress be adhered to on their part: as our rights of jurisdiction cease at our boundry.

TO MAJOR-GENERAL BARON STEUBEN.[1]

RICHMOND, December, 31st, 1780.

SIR,—I have this moment received information that 27 Sail of Vessels, 18 of which were square rigged, were yesterday morning just below Willoughby's Point. No other circumstance being given to con-

[1] Copied from the Sparks MSS., Harvard College.

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jecture their force or destination, I am only able to dispatch Gen[l]. Nelson into the lower Country, to take such measures as exigencies may require for the instant, until further information is received here. Then or in the mean time your aid and counsel will be deemed valuable.

EXTRACTS FROM DIARY.[1] J. MSS.

Saturday, December the 31st, 1780, eight o'clock, A.M. Received first intelligence that twenty-seven sail were, on the morning of December the 29th, just below Willoughby's Point. Sent off General Nelson, with full powers.

1781. January the 1st. No intelligence.

January the 2d, ten o'clock, A.M. Information from N. Burwell, that their advance was at Warrasqueak Bay. Gave orders for militia, a quarter from some, and half from other counties. Assembly rose.

Wednesday, January the 3d, eight o'clock, P.M. Received a letter from E. Archer, Swan's Point, that at twelve o'clock that day they were at anchor a little below Jamestown. At five o'clock, P.M., of the same day, I had received a letter from R. Andrews for General Nelson, that they were at Jamestown the evening of the 2d.

[1] These extracts were made by Jefferson, with a view to vindicate himself from the charges of incompetence and cowardness made in connection with the invasion of Virginia in 1781. The copy from which this is printed, was written in 1800, and the original diary is no longer extant. Under the year 1800, in this collection, will be printed two more papers relating to this subject, one of which is also in diary form.

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Thursday, January the 4th, five o'clock, A.M. Mr. Eppes and family, &c., came and informed me from the Speaker, that they had passed Kennon's and Hood's the evening before; the tide having made for them at one o'clock, P.M., of the 3d, and the wind shifted to the east strong. They had not, however, passed Hood's, but anchored at Kennon's. Called whole militia from adjacent counties. I was then anxious to know whether they would pass Westover, or not, as that would show the side they would land.

Five o'clock, P.M. Learned by Captain De Pon thiere, that at two o'clock, P.M., they were drawn up at Westover. Then ordered arms, and stores, &c., (which till then had been carrying to Westham,) to be thrown across the river at Richmond; and at half-past seven o'clock, P.M., set out to the foundry and Westham, and set Captain Brush, Captain Irish, and Mr. Hylton, to see everything wagoned from the magazine and laboratory to Westham, and there thrown over; to work all night. The enemy encamped at Four-Mile Creek. I went to Tuckahoe and lodged.

January the 5th. Went early over the river with my family; sent them up to Fine Creek; went myself to Westham; gave orders for withdrawing ammunition and arms (which lay exposed on the bank to the effect of artillery from opposite shore), behind a point. Then went to Manchester; had a view of the enemy. My horse sunk under me with fatigue; borrowed one, went to Chetwood's, appointed by Baron Steuben as a rendezvous and head-quarters;

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but finding him not there, and understanding he would go to Colonel Henry's, I proceeded there for quarters. The enemy arrived in Richmond at one o'clock, P.M. One regiment of infantry and thirty horse proceeded, without stopping, to the foundry; burned that and the magazine and Ballendine's house, and went as far as Westham. They returned that evening to Richmond. Sent me a proposition to compound for property. Refused.

January the 6th. In the morning they burned certain houses and stores, and at twelve o'clock of that day left Richmond, and encamped at Four-Mile Creek. I went to Westham, ordered books and papers particularly from magazine. In the evening I went up to Fine Creek.

January the 7th. I returned to Westham, and then came down to Manchester, where I lodged. The enemy encamped at Westover and Berkley. It had rained excessively the preceding night, and continued to do so till about noon. Gibson has one thousand; Steuben, eight hundred; Davis, two hundred; Nelson, two hundred and fifty.

January the 8th, at half-past seven o'clock, A.M. I returned to Richmond. The wind gets, about this time, to north-west; a good gale; in the afternoon becomes easterly. The enemy remain in their last encampment. General Nelson at Charles City C. H. Colonel Nicholas with three hundred men at the Forest.

January the 9th, eleven o'clock. The wind is south-east, but almost nothing. The enemy remain

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in their last encampment, except embarking their horse.

January the 10th, at one o'clock, P.M. They embark infantry, and fall down the river, the wind having shifted a little north of west, and pretty fresh. Baron Steuben gets to Bland's Mills to-night, nine miles short of Hood's.

January the 11th, eight o'clock, A.M. The wind due west, and strong.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

IN COUNCIL Jan. 1. 1781.

SIR,—The inclosed letter conveying intelligence of a fleet appearing in our bay, came to hand yesterday. Its size has given suspicions that it may be hostile, more especially as we have been lately informed that an embarkation was taking place at New York. I have thought it my duty to communicate it to the General assembly before their rising, as they might perhaps wish to give some advice to the Executive on this subject.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(BENJAMIN HARRISON.) V. S. A.

January 1st, 1781.

SIR,—I have this moment received confirmation of the arrival of a hostile fleet consisting of 19 ships, and two brigs and two sloops and schooners, the advance of a fleet were yesterday morning in Warrasqueak and just getting into motion up the river with a favorable wind and tide. Their destination from intelligence of deserters and some captured mariners whom they put on shore is up James River. I beg the favor of you to communicate this intelligence to the General Assembly.

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TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHMOND. January 2d, 1781.

SIR,—It happened unfortunately from the tenor of Mr. Wray's letter which gave us the first intelligence of the Appearance of an Enemy we had reason to expect more precise information within a few hours: none such having come within fifty hours, the first intelligence had become totally disbelieved. At 10 o'clock this morning I first received confirmation of it. Orders go out by the members of Assembly to call together half the Militia of the most convenient Counties for present Opposition and one fourth from more distant Counties. We mean to have four thousand six hundred Militia in the field. In this number is not included any below this County. Hanover, Chesterfield, Dinwiddie, Sussex and Southampton, all below these Counties we have left uncalled on to be drawn by you (or such of them as you think proper) into such parts of the lower Country as you shall think best. Mr. Brown the Commissary has Orders to send a Deputy to furnish you with provisions. I do myself the pleasure of sending you a Commission. I pray you to send as frequent intelligence as possible. Expresses being in readiness for this purpose at Williamsburg and New Kent Court House. Be pleased to give the same notice to the militia as formerly that no man will be ever discharged till he shall have returned whatever Public Arms or Accoutrements he shall have received: be also particular in noting what is delivered to every man. We mean to appoint the

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Field Officers on the same plan as in the former Invasion from the resigned and supernumery, preserving the Ranks of those Gentlemen accurately as among themselves.

TO MAJOR-GENERAL BARON STEUBEN.[1]

January 2d. 1781.

SIR,—I have this moment received a confirmation of the arrival of a hostile Fleet consisting of 19 Ships, 2 Brigs, and 10 Sloops and Schooners. The advance of the Fleet were yesterday morning in Warrasqueak Bay, and just getting into motion up the river with a favorable wind and tide: their destination from the intelligence of deserters and some captured mariners, whom they put on shore, is some where up the river, supposed to be Petersburg. We shall be very glad of the aid of your counsel in determining on the force to be collected, and other circumstances necessary to be attended to, for the purpose of opposition, if it be convenient for you to call on the council immediately.

CIRCULAR-LETTER TO THE COUNTY LIEUTENANTS OF HENRICO, HANOVER, GOOCHLAND, FLUVANNA, ALBEMARLE, AMHERST, CHESTERFIELD, POWHATAN, CUMBERLAND, DINWIDDIE, AMELIA, BUCKINGHAM, BEDFORD, HALIFAX, CHARLOTTE,. PRINCE EDWARD, LUNENBURG, MECKLINBURG, SUSSEX, SOUTHAMPTON, BRUNSWICK. V. S. A.

RICHMOND. January 2d, 1781.

SIR,—The arrival of a hostile force within our State being confirmed and their movements indicating an intention to come

[1] From the Sparks MSS., Harvard College.

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immediately into the Heart of the Country renders it necessary to call for of your militia under proper captains and subaltern officers to rendezvous

That there may not be an instants delay let them come in detached parties as they can be collected; every man who has arms bring them. The good of the service requires that the Field Officers at least be experienced in the service, for this reason these will be provided for at the Rendezvous. I beg that this may not be considered by the militia Field Officers from want of Respect to them. We know & confide in their zeal: but it cannot be disreputable to them to be less knowing in the art of war than those who have greater experience in it: and being less knowing, I am sure spirit of Patriotism with which they are animated will lead them to wish that measure to be adopted which will most promote the Public safety however it may tend to keep them from the Post in which they would wish to appear in defence of their Country. The Militia must be subsisted to their Rendezvous under the rules of the Invasion law. A list of all certificates given being kept and returned to the Auditors.

CIRCULAR-LETTER TO THE COUNTY LIEUTENANTS OF SHENANDOAH, ROCKINGHAM, AUGUSTA, AND ROCKBRIDGE.

V. S. A.

IN COUNCIL. January 2d. 1781.

SIR,—The Enemy having again thought proper to invade our Country and being now on their way up James River, I have thought proper with advice of the Council of State to require of your militia under proper officers to repair immediately to Richmond, armed with good Rifles and Accoutrements suitable as far as they have them; such of them as have not Rifles will be armed here with muskets and joined to Battalions of Musquetry. Those who bring Rifles will be formed into a seperate corps. Much will depend on the proper choice Officers. They are to be furnished with Provisions by impressing it as directed by the Invasion law, the Person procuring it for them keeping and returning to the Auditors a list of the certificates

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they grant, stating the Name, Article, Price and Purpose. As the Enemy show by their movements an intention to take Post in the Heart of our Country at once I beseech you to lose not a moment in sending of your men.

CIRCULAR-LETTER TO THE COUNTY LIEUTENANTS OF HENRICO, HANOVER, GOOCHLAND, POWHATAN, AND CHESTERFIELD. V. S. A.

RICHMOND. January 4, 1781.

SIR,—The Enemy having last night passed up James River and seeming to point immediately to this place or Petersburg, I must desire you without a moments delay to send every man of your County able to bear Arms to rendezvous at Westham, let them come in small Detachments as they can be collected and not wait to be formed into Companies.

TO COLONEL FRANCIS TAYLOR. V. S. A.

IN COUNCIL. January 4, 1781.

SIR,—The enemy now appear to be pushing to this place and we know not how much further they may attempt to penetrate. A suspicion that the Conventioners might be induced to attempt a Co-operation and by that means distract the efforts of our People renders it necessary that in the instant of your receiving this you put those Troops into Motion without waiting for their Baggage or anything else, within a very few hours we expect you may throw the whole across the blue ridge and it may be well for you to call on the Counties of Augusta, Amherst and Albemarle to collect a force at Rockfish gap to oppose any pursuit. I would not have those

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Counties on account of such a call withold the militia required to come here. They must furnish so many additional as you call for. A multiplicity of business puts it out of my Power to send you written Powers of impress. But you must exercise that Power for every purpose only requiring you to keep exact lists of their Certificates to be returned to the Auditors as directed on a former Occasion.

TO COLONEL RICHARD MEADE. V. S. A.

IN COUNCIL. January 4, 1781.

SIR,—The present invasion having rendered it necessary to call into the field a large Body of Militia the providing them with subsistence, and the means of transportation becomes an arduous task in the unorganized state of our military system. To effect this we are obliged to vest the Heads of the Commissary's and Quarter Master's Departments with such Powers as if abused will be most afflicting to the People. Major General Baron Steuben taught by experience on similar occasions has pressed on us the necessity of calling to the Superintendance of these Officers some Gentleman of distinguished Character and abilities, who, while he prescribes to them such Rules as will effectually produce the object of their appointment, will yet stand between them and the people as a Guard from Oppression. Such a Gentleman he would propose to consider as of his Family; under the exegency we have taken the Liberty of casting our eyes on yourself as most likely to fulfill our wishes and therefore solicit your undertaking this

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charge; in doing this we rely on the impulse of purer motives than those which would spring from any pecuniary reward it is our power to offer. At the same time we cannot with justice permit that any expenses incurred in such a station should be borne by yourself. I shall hope to receive your answer by the return of the Bearer.

TO MAJOR-GENERAL BARON STEUBEN. V. S. A.

RICHMOND. January 4—1781.

SIR,— * * * I immediately on receiving the communication from you by Major Walker[1] that you would wish such a person as you therein described to be with you. I laid it before the Council. We concluded to propose to Major Walker (late of our delegates) to accept of this office having once been a member of the Council he is not unacquainted with our arrangements. I sent to him by Express and shall hope an answer very shortly. I sincerely wish he may consent to undertake it, as I am satisfied he can save *you much Trouble.* Should he decline it I

[1] On Jan. 18, 1781, Jefferson wrote to John Walker: "Baron Steuben who commands the military force in this state on the present invasion, being much unacquainted with its laws, customs, resources and organization while he has hourly cause to apply to them has desired we will prevail on some gentleman acquainted with these to be of his family to point his applications to the proper persons & places and to enable him to avail himself of our strength and resources. Searching about for such a person we cast our eye on you and hope you will undertake the office. Whatever expences may be incurred by you on this occasion must be public & a proper compensation moreover be paid for time and trouble. These matters may be settled either before or after the service performed, as you chuse. Your answer by the bearer and immediate attendance if possible will oblige."

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apprehend it not easy to find another who will be of real use to you. None of the militia with Genl. Weedon (except from the Counties of Rockbridge, Augusta, Rockingham and Shenandoah) were of the Counties intended to be kept in the Field. I thought it necessary to mention this circumstance to you as you might perhaps think proper to discharge them before they join Genl. Nelson.

TO MAJOR-GENERAL BARON STEUBEN.[1]

MANCHESTER, Jany. 7th, 1781, ½ past 9 P.M.

SIR,—Your letter of this morning on the subject of finding where the arms have been sent and having them put into the hands of the Militia I have this morning received. I think most of the arms have been sent off in different directions by the orders of Colo. Davies, whom I believe to be therefore best acquainted with their situation. If I did not misunderstand him to-day he has accordingly directed particular bodies of militia to go to particular places to receive arms. However (if I do not go to Richmond to-night which I have some thought of doing) I will write to Col. Muter to appoint some proper person to undertake and execute this business immediately as you desire; as I wish exceedingly to relieve you from every unnecessary embarrassment when I know you are exposed to but too many which are unavoidable.

[1] From the Sparks MSS., Harvard College.

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TO MAJOR-GENERAL BARON STEUBEN.[1]

MANCHESTER, Jan. 7th. 1781. 2 o'clock P.M.

SIR—I have thought myself very unfortunate in missing of you for two days though riding over the same ground on which you were. On my arrival here I was informed you were at Ampshill and was setting out for there, when a Gentleman came who assured me you were at Ozborne's and having rode thirty miles through the rain, I have not resolution enough to undertake to go to Ozborne's this evening.

I received your letter of yesterday at Westham at noon. I fear it will be impossible to furnish the thousand Stand of Arms you desire. Col. Davies has sent some hundreds from Westham to different places to be put into the hands of the Militia coming in. He has undertaken to have those remaining there separated, in order that such as are capable of being used may be sent to you, and I have engaged persons who are gone out to impress Waggons to transport them to you. Colo. Davies seemed doubtful to what place they should be ordered. I mean to continue here or at Richmond to see whether I can collect the several Staff Officers of the State, and have the benefit of their Services on the present occasion. I shall be very happy to aid those of the Continent with every power I am invested with. While at either of these places I shall be able to communicate both with yourself and General Nelson, and to do everything you will be pleased to suggest for the

[1] From the Sparks MSS., Harvard College.

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service. I fear the want of Arms fit for service will be a most distressing circumstance. Are there no Continental Arms which can be used on the present occasion? I mean to endeavour to collect hands and tools immediately to repair Arms. Tools will be the most difficult to be procured.

TO MAJOR-GENERAL BARON STEUBEN. V. S. A.

RICHMOND. January 9—1781.

Sir,—Mr. Granville Smith, a State Quarter Master, now waits on you. As I am not thoroughly acquainted with the Continental Regulations, I shall just mention to you my Ideas on this particular matter without laying any stress on them and leave to your determination the propriety of using Mr. Smith. I have ever understood that the rule of Congress was to admit no expenses to be Continental which were incurred by any State merely under an apprehension of an invasion; but that whenever a State was actually invaded all expenses became Continental. This I know was the rule while I was a member of Congress, but as it is four years since I was a member of Congress, I cannot affirm of my own knowledge, though I have understood that it is still the rule. The practice here has accordingly been for the Continental Quarter Master to come into duty as soon as the State has been invaded; he being appointed under the authority of Congress, it has been supposed that he could best regulate all expenses according to the Continental rules. The State Quar-

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ter Master not being appointed under Congress, not possessing their confidence, nor subject to their removal or punishment, seems for these reasons an improper person to dispense their monies. I submit these matters, however, altogether to yourself. Should you think it proper that the State Quarter Master should act, Mr. Smith is instructed to receive your orders: he is a discreet & sensible person.

TO THE PRESIDENT OF CONGRESS.[1] C. C.
(SAMUEL HUNTINGTON.)

RICHMOND Jany 10. 1781.

SIR,—It may seem odd considering the important events which have taken place in this State within the course of ten days past, that I should not have transmitted an account of them to your Excellency; but such has been their extraordinary rapidity & such the unremitted exertions they have required from all concerned in government that I do not recollect the portion of time which I could have taken to commit them to paper.

On the 31st of December, a Letter from a private gentleman to General Nelson came to my hands, notifying that in the morning of the preceding day 27 sail of vessels had entered the capes & from the tenor of the letter we had reason to expect within a few hours further intelligence whether they were friends or foes, their force, & other circumstances.

[1] A letter to Washington of the same date and tenor is printed in Washington's edition, I, 282.

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We immediately despatched General Nelson to the lower Country with power to call on the Militia in that quarter or to act otherwise as exigencies should require; but waited further intelligence before we would call for militia from the middle or upper country. No further intelligence came until the 2d inst. when the former was confirmed, it was ascertained that they were enemies & had advanced up James river in Warrasqueak bay. All arrangements were immediately taken for calling in a sufficient body of Militia for opposition. In the night of the 3d we received advice that they were at anchor opposite Jamestown. We then supposed Wmsburg to be their object. The wind however, which had hitherto been unfavorable, shifted fair, and the tide being also in their favor they ascended the river to Kennons' that evening, and with the next tide came up to Westover, having on their way taken possession of some works we had at Hoods, by which two or three of their vessels had received some damage but which were of necessity abandoned by the small garrison of 50 men placed there on the enemy's landing to invest the works. Intelligence of their having quitted the station at Jamestown from which we supposed they meant to land for Wmsburg and that they had got in the evening to Kennons' reached us the next morning at 5 o'clock, & was the first indication of their meaning to penetrate towards this place or Petersburg. As the orders for drawing Militia hither had been given but two days no opposition was in readiness. Every Effort was therefore neces-

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sary to withdraw the arms & other Military Stores records &c. from this place. Every Effort was accordingly exerted to convey them to the Foundry five miles & to the laboratory six miles above this place till about sunset of that day when we learnt that the enemy had come to an anchor at Westover that morning. We then knew that this & not Petersburg was their object & began to carry across the river everything remaining here, & to remove what had been transported to the Foundry & Laboratory to Westham the nearest crossing seven miles above this place, which operation was continued till they had approached very near. They marched from Westover at 2 o'Clock in the afternoon of the 4th, & entered Richmond at 1 o'Clock in the afternoon of the 5th. A regiment of infantry & about 30 horse continued on without halting to the Foundry. They burnt that, the boring mill, the magazine and two other houses, & proceeded to Westham, but nothing being in their power there they retired to Richmond. The next morning they burnt some buildings of public & private property, with what stores remained in them, destroyed a great quantity of private Stores & about 12 o'Clock retired towards Westover where they encamped within the neck the next day. The loss sustained is not yet accurately known. As far as I have been able to discover it consisted at this place in about 300 muskets, some soldiers clothing to a small amount some quartermasters Stores of which 120 sides of leather is the principal article, part of the artificers tools & 3 waggons. Besides

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which 5 brass 4 P.ers which we had sunk in the river were discovered to them raised & carried off. At the Foundry we lost the greater part of the papers belonging to the Auditors office, & of the books & papers of the Council office, about 5 or 6 tons as we conjecture of powder was thrown into the canal of which there will be a considerable saving by remanufacturing it. The roof of the foundry was burnt but the Stacks of Chimney's & furnaces not at all injured. The boring mill was consumed. Within less than 48 hours from the time of their landing & 19 from our knowing their destination they had penetrated 33 miles, done the whole injury & retired. Their numbers from the best intelligence I have had are about 1500 infantry & as to their cavalry accounts vary from 50 to 120, the whole commanded by the parricide Arnold. Our Militia dispersed over a large tract of Country can be called in but slowly. On the day the enemy advanced to this place 200 only were embodied. They were of this town & its neighbourhood and were too few to do anything. At this time they are assembled in pretty considerable numbers on the South side of James river but are not all yet brought to a point. On the north side are two or three small bodies, amounting in the whole to about 900 men. The enemy were at 4 o'Clock yesterday evening still remaining in their encampment at Westover & Berkeley neck. In the meanwhile Baron Steuben a zealous friend has descended from the dignity of his proper command to direct our smallest movements. His vigilance has in

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a great measure supplied the want of force in preventing the enemy from crossing the river, which might have been very fatal. He has been assiduously employed in preparing equipments for the Militia as they should assemble pointing them to a proper object & other offices of a good commander. Should they loiter a little longer & he be able to have a sufficient force I shall flatter myself that they will not escape with total impunity. To what place they will point their next exertions we cannot even conjecture. The whole Country on the tide waters & some distance from them is equally open to similar insult. I have the honor to be with every sentiment of respect, your Excellency's most obedient, and most humble servant.

TO COLONEL JOHN NICHOLAS. V. S. A.

January 10.—1781.

SIR,—I am not fond of encouraging an intercourse with the enemy for the recovery of property; however I shall not forbid it while conducted on principles which are fair and general. If the British Commander chuses to discriminate between the several species of property taken from the People; if he chuses to say he will restore all of one kind, and retain all of another, I am contented that individuals shall avail themselves of this discrimination; but no distinctions of persons must be admitted. The moment it is proposed that the same species of property shall be restored to one which is refused to another, let every application to him for restitution

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be prohibited. The principles by which his discrimination would be governed are but too obvious, and they are the reverse of what we should approve.

TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHMOND. Jany 12—1781.

The Enemy left a number of Horses at Westover which they had taken during the late incursion. Col° Nicholas very properly ordered a party to take charge of them and bring them to the Quarter Master where they might be kept for the owners to come and claim them; but I am well informed that in the meantime several men of Capt Hockaday's command of Charles City have plundered & carried them off. These men being under your command I beg you to take the most coercive measures for compelling a restitution and letting them know that the most rigorous and exemplary punishment will be inflicted on every man who shall be known to have one of them and not to deliver him up. Such as are recovered be so good as to have brought up. The mischief done us by our citizens plundering one another has far exceeded what the enemy did.

TO MAJOR-GENERAL BARON STEUBEN. V. S. A.

RICHMOND. Jany 13—1781.

Sir,—I received your favor of the 11th by Mr. Smith I cannot say at what point of time the expenses attending an invasion become Continental. I

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suppose Congress have some fixed rule on that subject, which, whatever it be when applied to all the States, will be equal.

From the time at which they called for specie quotas of Provisions from the several States, they seem to have considered their purchasing Commissaries as useless, and therefore desired us, whenever we should have appointed a person to furnish the specifics, we would discontinue their purchasing Commissaries. We appointed Mr. Brown to procure the specifics, which he is either to deliver to certain store keepers appointed by the Continental Quarter Masters or to the Continental issuing Commissaries. I think therefore Mr. Brown may continue to act with you with propriety and I hope he will with effect. We did not discontinue Continental Deputy Commissary of purchases here (Maj Forsyth) but his acceptance of a similar office in another quarter seems to have determined his former commission. I have heard nothing from the enemy since their reaching Sandy Point, this leaves me very anxious for our shipyard up the Chickahominy.

I have lately received some dispatches which render it necessary for Col° Clarke to proceed immediately to the western Country. I have written to him on this subject, and hope he will obtain your permission to return. I did not expect at the time he went to you that his stay would have been rendered so short.

If this incursion of the Enemy should much longer postpone the execution of the late Law for raising

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new levies, it will be among its worst effects. Yet this law cannot be carried into execution in those Counties from which militia are sent. Foreseeing this, when you had favored us with your advice as to the numbers which should be called into the field we confined the call to the following Counties, and requiring from each a fourth we expected the following numbers

Halifax.....247.	Albemarle.....218.	Lunenberg.....168
Charlotte.....156.	Fluvanna..... 65.	Mecklen^{g}.....212
P. Edward.....142.	Goochland.....145.	Brunswick.....325
Bedford.....325.	Cumberland....102.	Dinwiddie.....175
Bucking^{m}.....162.	Powhatan..... 71.	Chesterfield.....164
Amherst.....224.	Amelia.....275.	Henrico.....155
Sussex.....175.	Southamp^{n}.....218.	Rockbridge.....146
Augusta.....344.	Rockingh^{m}.....219.	Shenandoah.....216
		Total 4650

The whole amount is something larger than you desired but we of course expected deficiencies. Some of the adjacent counties were called on at first for one half, and afterwards the whole of their militia for present defence. In like manner Genl Nelson was authorized to call on certain other Counties for present defence; but it was meant that as soon as the proportions above mentioned from the counties particularly named were come in, all others should be dismissed. I state this matter to you supposing you will think with me that the sooner you can begin the business of arranging your force on the plan originally intended, the better it will be. As soon as the whole Militia of the Counties, not meant to be kept in the field, can be discharged we will send the act into those counties and have it carried into execution.

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TO THE PRESIDENT OF CONGRESS. J. MSS.
(SAMUEL HUNTINGTON.)

RICHMOND Jany 15th, 1781.

SIR,—I received some time ago from Major Forsythe, and afterwards from you a requisition to furnish one half of the supplies of provision for the Convention troops removed into Maryland. I should sooner have done myself the honor of writing to you on this subject but that I hoped to have had it laid before you more fully than could be done in writing by a Gentleman who was to have passed on other public business to Philadelphia. The late events in this State having retarded his setting out, I think it my duty no longer to postpone explanation on this head.

You cannot be unapprised of the powerful armies of our enemies at this time in this and the southern States, and that their future plan is to push their successes in the same quarter by still larger reinforcements. The forces to be opposed to these must be proportionably great, and these forces must be fed. By whom are they to be fed? Georgia and South Carolina are annihilated, at least as to us. By the requisition to us to send provisions into Maryland it is to be supposed that none are to come to the southern Army from any State north of this; for it would seem inconsistent, that while we should be sending north, Maryland and other States beyond that should be sending their provisions South. Upon North Carolina then already exhausted by the ravages of two armies, and on this State are to depend for sub-

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sistence those bodies of men who are to oppose the greater part of the enemys force in the United States, the subsistence of the German and of half the British conventioners. To take a view of this matter on the Continental requisitions of November 4th, 1780, for specific quotas of provision it is observable that North Carolina and Virginia are to furnish 10,475,740 ps of animal food, and 13,529 barrels of flour, while the states north of these will yield 25,293,810 ps of animal food, and 106,471 barrels of flour.

If the greater part of the British armies be employed in the South, it is to be supposed that the greater part of the American force will be sent there to oppose them. But should this be the case, while the distribution of the provisions is so very unequal, would it be proper to render it still more so by withdrawing a part of our contributions to the support of Posts Northward of us? It would certainly be a great convenience to us to deliver a portion of our Specifics at Frederick Town rather than in Carolina; but I leave it to you to judge whether this would be consistent with the general good or safety. Instead of sending aids of any kind to the northward, it seems but too certain that unless very timely & substantial assistance is received from thence, our enemies are yet far short of the ultimate term of their successes. I beg leave therefore to refer to you whether the specifics of Maryland as far as shall be necessary had not better be applied to the support of the Posts within it, for which its quota is much more than suf-

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ficient, or were it otherwise whether those of the States north of Maryland had not better be called on, than to detract anything from the resources of the Southern Opposition already much too small for the encounter to which it is left. I am far from wishing to count or measure our contributions by the requisitions of Congress. Were they ever so much beyond these, I should readily strain them in aid of any one of our Sister States. But while they are so far short of those calls to which they must be pointed in the first instance, it would be great misapplication to divert them to any other purpose; and I am persuaded you will think me perfectly within the line of duty when I ask a revisal of this requisition.

TO THE GOVERNOR OF MARYLAND.[1]

(THOMAS SIM LEE.) V. S. A.

RICHMOND. January the 15th, 1781

SIR,—I received some time ago from Mr. Forsyth and afterwards from the Board of War a requisition to furnish one half the supplies of Provisions for the convention Troops removed into Your state. I should sooner have done myself the honor of writing to Your Excellency on this subject but that I hoped to have had it laid before you more fully than could be done in writing by a Gentleman who was to have passed on other public business by the way of Annapolis. The late events in this State having retarded

[1] This letter was also written to the Board of War of Maryland.

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his setting out I think it my duty no longer to postpone explanation on this head.[1] * * *

I am persuaded your Excellency will think me perfectly within the line of duty when I ask a revisal of this requisition which shall be paid in Tobacco at 20/ p hundred or its worth in paper money. If Gentlemen who have timber on James River above the Falls chuse rather to employ their sawyers under their own eye, and will cut and send to Westham or the fork of the River as they shall be advised Quantities of Plank fit for building it will answer the public purpose as well as if they sent their sawyers to us. In this case they must fix the quantity and time within which it shall be delivered, the worth of this shall be fixed on the principles before explained.

TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHMOND. Jany 15th 1781

DEAR GENL.—I have never heard a tittle of the Enemy since your information that they were at Sandy Point the day after they left Westover; nor is anything known at this place as to their subsequent movements. As this want of intelligence might eventually be fatal, I have ordered an Express to be stationed at Bottom's Bridge, another at New Kent Court House, a third at Bird's tavern, a fourth at Williamsburg, a fifth half way between that and

[1] The portion omitted is of the same tenor as the last two paragraphs of the preceeding letter.

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Hampton, and a sixth at Hampton. It will be easy for Mr. Kemp to throw letters from you wherever situated into this line and as each Rider will have but 15 miles out and the same back, they may if necessary be put into motion every day. By the same means you may have communication with Hampton. Your business may probably put it out of your power to write so often, but hope that some of the gentlemen about you may be able to give us intelligence every day or two.

TO JACOB WRAY. V. S. A.

RICHMOND Jany 15th, 1781.

For want of intelligence may be ascribed a great part of, if not the whole of the Enemy's late successful incursions to this place. They appeared in the Bay on the Saturday, no notification of it addressed to the Executive came to hand till 10 o'clock A.M. on tuesday. There did indeed on sunday morning come to my hands a letter which you were so kind to write to Genl. Nelson informing him that 27 sail had been seen in the Bay and that Commo Barron had gone to reconnoitre them more closely. But as it was not known whether they were Friends or foes, and we hoped more particular intelligence on the return of Commo Barron, none but the lower militia were called out, till the Tuesday following, by which two days were compleatly lost: which would have added so much to the collection of militia in this quarter as to have rendered doubtful at least whether the enemy could have got here.

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I mention these circumstances to show you the necessity of our being better furnished with intelligence of the Enemy's movements, and to apologize for my troubling you with the task of communicating everything interesting through the line of expresses stationed at every 15 miles from hence to Hampton. One is to be fixed by Mr. Kemp at Hampton will set out on yours or Commo Barron's orders and deliver his dispatches to the next who is ordered to be stationed half way between Hampton & Williamsburg: the particular place I cannot inform you, but the express may do it. I hope you will be so good as to undertake this trouble and to continue it so long as it may be necessary to keep up the line.

TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHMOND. January 15—1781.

DEAR GENERAL,—As I suppose by this time you may have more men than Arms, and there are no more arms fit for use remaining in the public Stock, economy will require that the surplus militia be discharged. This measure is the more necessary as the law for raising new levies remains unexecuted while the militia are from the counties. I shall therefore take the liberty of pointing out to you, as I have done to Baron Steuben, what particular militia should be first discharged. On confirmation of the intelligence that a hostile fleet had arrived we asked the advice of Baron Steuben as to the numbers which

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should be brought into the field: He advised 4000: we therefore called on the following Counties for one fourth of their militia, which we expected would produce the numbers as annexed to them, viz

Halifax....	247.	Charlotte...	156.	Prince Edward	142.	Bedford....	325
Buckingham	162.	Amherst....	224.	Albemarle....	218.	Fluvanna...	65
Goochland.	145.	Cumberland	102.	Powhatan....	71.	Amelia.....	275
Lunenburg.	169.	Mecklinburg	212.	Brunswick....	325.	Dinwiddie..	175
Chesterfield	164.	Henrico....	155	Sussex.....	175.	Southampton	218
Rockbridge.	146.	Augusta....	344.	Rockingham..	219.	Shenandoah.	216

The amount (4650) was greater than the Baron's requisition because we of course expected deficiencies. The above were intended to be kept in the field for some time; but some of these Counties were distant, we called on those in the neighborhood of this place at first for one half and afterwards for all their fighting men for present defence, meaning that as soon as those before enumerated should be in the field, those called for present defence should be discharged. In like manner you are authorized for the purpose of hasty opposition to call out certain counties, which it was likewise our idea to discharge on receiving the force which was to remain. Whenever, therefore, all your arms shall be taken up, should more militia come in we would chuse that you discharge so many of those Counties not originally called on, or of those which tho' originally called on have yet more than one fourth in the field. By these means we shall in time have in the field the militia of those particular Counties only which were first called on, and the other Counties being all at home we may proceed to send to them the law for raising levies in order to its execution.

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TO THE VIRGINIA DELEGATES IN CONGRESS. V. S. A.

RICHMOND Jany. 15, 1781.

GENTLEMEN,—I called on Mr. Anderson the writer of the letter to Capt Trot which you were pleased to enclose to me and desired he would explain the foundation on which he had written that letter. His explanation I now enclose you from which you will be able to collect only thus much that his application on behalf of Mr. Trot was utterly rejected and nothing said which could authorize him to suppose we should wink at his loading his vessel with Corn. He has trimmed up an answer for me of I only wish to be acquitted till I can be understood. I must at the same time acknowledge to you with candor that considering the neutral light in which Congress have placed the Bermudians and the extreme want of salt here, we have at various times permitted them to bring in Salt and exchange it with Government at the rate of one Bushel of salt for two at first and afterwards three of corn: and sometimes for Tobacco. We have been rigorous in allowing no more to be carried out than was procured by exchange in this way. You cannot be made more sensible of the necessity which forces us to this Barter, than by being assured that no further back than the Counties adjoining the Blue-ridge Salt has sold lately for from 4 to 500£ the bushel.

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TO MAJOR-GENERAL NATHANAEL GREENE. V. S. A.

RICHMOND. Jan'y 16—1781.

SIR,—Your favors of the 14th and 31st December remain unanswered. I have been less attentive to the communication of our progress in preparing for the Southern War as Baron Steuben who knows all our movements gives you no doubt full information from time to time. The present invasion of this State you have been before apprised of by the Baron. The very extraordinary and successful attempt of the Enemy on this place you will also have heard of. The enclosed paper containing a pretty exact narrative of it I take the liberty of transmitting to you. The Enemy, on the Baron's approaching towards Hood's, hoisted sail and with the assistance of a very fine gale which sprung up in the instant, they fell down the River in a very short time. When they came we were in a very fine way of providing both subsistence and men; they have amazingly interrupted both operations: the latter indeed has been totally suspended. I have just written to Baron Steuben so to arrange his force of militia, as by permitting those from the greater number of Counties to return home, to put into our power to have the law for raising Regulars carried into into execution. This his anxiety for a regular force will lead him to do with all practicable expedition.

Your Bill in favor of Mr. St. Laurence is accepted, and will be paid as soon as the several Boards resume Business. When the departure of the Enemy, or indications of their fixed plans as to this country shall

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have enabled me to judge how far they will interrupt our succours to you, I will take the earliest Opportunity of stating to you under every Head of your requisitions from us what we shall have a prospect of doing.

TO THE GOVERNOR OF NORTH CAROLINA.

(ABNER NASH.) V. S. A.

RICHMOND. Jany 16—1781.

SIR,—I am honored with your Excellency's favor of the 3d inst and am to thank you for your permission & countenance to our Pork purchases.

The late invasion of this State by the Enemy should not have been so long uncommunicated to you by me, but that the very extraordinary movement they made was such in its nature as to allow little time to those concerned in Government to think of anything but the providing means of opposition and in the mean time with drawing everything from their power. From a fatal inattention to the giving us due notice of the arrival of a hostile force two days were completely lost in calling together the militia: a time which events proved would have added so much of our collection of militia as to have rendered doubtful their getting from this place. The winds favouring them in a remarkable degree they almost brought news themselves of their movements. They were landed within twenty six miles of this place before we had reason to suspect they would aim at it. The little interval of twenty three hours between that and their actual [arrival] here was assiduously and successfully employed in withdrawing the public stores

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from hence and from Westham seven miles above this. This was so far done that our loss did not exceed 300 muskets, about 5 Tons of Powder, some sulphur, 5 field pieces, four pounders and some inferior articles of no great account. The letters and records of the Executive were the greater part lost. They retired hastily to their shipping after 23 hours possession of the place. The interruption which they have given to raising men and providing subsistance is likely to be very injurious. We are endeavoring to get over this difficulty also as well as we can. Should any movements take place interesting to Your State I shall communicate them to Your Excellency as soon as known to me, the communication will be circuitous. Perhaps should they take Post at Portsmouth, you might think it expedient to establish a line of Expresses to the neighbourhood of that place.

TO THE PRESIDENT OF CONGRESS. J. MSS.

RICHMOND Jany 17, 1781.

SIR,—I do myself the honor of transmitting to your Excellency a resolution of the General Assembly of this Commonwealth entered into in consequence of the resolution of Congress of September 6th, 1780, on the subject of the Confederation.[1] I shall be rendered very happy if the other States of the Union equally impressed with the necessity of that important convention, shall be willing to sacrifice

[1] The resolution adopted Jan. 2, 1781, ceding to the United States the lands claimed by Virginia, northwest of the Ohio, on condition that the States ratified the Articles of Confederation.

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equally to its completion. This single event could it take place shortly would overweigh every success which the enemy have hitherto obtained, & render desperate the hopes to which those successes have given birth.

TO THE VIRGINIA DELEGATES IN CONGRESS. J. MSS.

RICHMOND Jany 18th, 1781.

GENTLEMEN,—I enclose you a resolution of Assembly directing your conduct as to the navigation of the Mississippi.[1] The loss of powder lately sustained by us (about 5 tons) together with the quantities sent on to the Southward have reduced our stock very low indeed. We lent to Congress in the course of the last year (previous to our issues for the Southern Army) about ten tons of powder. I shall be obliged to you to procure an order from the board of war for any quantity from five to ten tons, to be sent us immediately from Philadelphia or Baltimore, and to enquire into and hasten from time to time, the execution of it. The stock of Cartridge paper is nearly exhausted. I do not know whether Capt. Irish, or what other officer should apply for this. It is essential that a good stock should be forwarded and without a moments delay. If there be a rock on which we are to split, it is the want of Muskets, Bayonets & cartouch-boxes.

The occurrences since my last to the President are not of any magnitude. Three little rencounters have

[1] Agreeing to waive right of navigation in case the interests of the United States demanded it.

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happened with the enemy. In the first General Smallwood led on a party of two or three hundred Militia & obliged some armed Vessels of the enemy to retire from a prize they had taken at Broadway's and renewing his attack the next day with a 4 lber or two (for on the first day he had only muskets) he obliged some of their Vessels to fall down from City Point to their main fleet at Westover. The enemy's loss is not known; ours was four men wounded. One of the evenings during their encampment at Westover & Berkeley, their light Horse surprised a party of about 100 or 150 Militia at Charles City Court House, killed & wounded four, & took as has been generally said about seven or eight. On Baron Steuben's approach towards Hood's they embarked at Westover; the wind which till then had set directly up the river from the time of their leaving Jamestown, shifted in the moment to the Opposite point. Baron Steuben had not reached Hood's by eight or ten miles when they arrived there. They landed their whole army in the night, Arnold attending in person. Colo. Clarke (of Kaskaskias) had been sent on with 240 men by Baron Steuben, & having properly disposed of them in ambuscade gave them a deliberate fire, which killed 17 on the spot & wounded 13. They returned it in confusion, by which we had 3 or 4 wounded, and our party being so small & without Bayonets, were obliged to retire on the enemy's charging with Bayonets. They fell down to Cobham, from whence they carried all the Tobacco there (about 60 Hogsheads) and the last intelligence

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was that on the 16th they were standing for Newportsnews. Baron Steuben is of Opinion they are proceeding to fix a post in some of the lower counties. Later information has given no reason to believe their force more considerable than we at first supposed. I think since the arrival of the three transports which had been separated in a storm, they may be considered as about 2000 strong. Their naval force according to the best intelligence is the Charon of 44 guns, Commodore Symmonds; the Amphitrite, Iris, Thames, & Charlestown Frigates, the Fowey of 20 guns, 2 sloops of war, a Privateer ship & 2 brigs. We have about 3700 Militia embodied, but at present they are divided into three distant encampments. One under General Weeden at Fredericksburg for the protection of the important works there; another under Genl. Nelson at & near Williamsburg; & a third under Baron Steuben at Cabbin Point. As soon as the enemy fix themselves these will be brought to a point.

CIRCULAR-LETTER TO THE COUNTY LIEUTENANTS.

V. S. A.

IN COUNCIL. January 19th, 1781.

SIR,—The invasion of our Country by the enemy at the close of the last Session of Assembly their pushing immediately to this place the Dispersion of the Public Papers which for the purpose of saving them necessarily took place and the injury done at the printing office have been so many causes operating unfortunately to the delay of transmitting you the Acts of Assembly which required immediate execution. The principal of these, the Law for recruiting the Army, having been framed on the Idea that the Militia of the several Counties would be quiet at Home has

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been peculiarly retarded by the necessity we were under of calling Militia from almost every County. We have seized the earliest moment possible of discharging those of as many Counties as could be, in order that this important Law may be put into a course of execution. It is now enclosed to You. Your duty till the new levies shall be ready to march from the County being precisely pointed out by the Act, I shall take up the subject from that point only. New London, Staunton, Winchester, Fredericksburg and Chesterfield Courthouse are appointed for the rendezvous of the levies. You are at liberty to send them to any of these places, but as they are ultimately to proceed to Chesterfield Courthouse, I would recommend to you to consider this in your choice of rendezvous. At each of these *places* an officer will attend from the tenth Day of March next for the Purpose of receiving them. You will send them under the charge of an officer who being enabled by the Act itself to provide means of Transportation is hereby authorized to apply for subsistence to any Commissary Commissioner or other Person, Principal or Subordinate having Public Provisions in their Possession and on Failure to obtain a sufficiency in that way he is to impress it, giving certificates to the Persons from whom he shall impress it, and returning to the Auditors a List of such Certificates specifying the Party's name, Article, Price and Date. Let this Officer be furnished with a proper Certificate from you that he is appointed to this Duty which he is to send to the Auditor's with his list that they may be satisfied with his authority. I enclose you two blank Calenders in which you will insert the names and descriptions of your levies delivered to the Officer who will be appointed by us to receive them as directed by the Act of Assembly : the one of these he will sign and leave as a Voucher to You, the other should be signed by yourself or the Officer delivering the men for you and left in the hands of the receiving officer. On the close of your Draught I must desire a return of your Militia and as the Law obliges the Captains to make exact returns to you at every General muster, I am to require that from these you make always an exact return to the Executive, that we may have a constant knowledge of the actual strength of your Militia. Notwithstanding the requisition I made you six

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months ago for a return of your Militia you have not been pleased to comply with it, an Inattention which cannot be justified on any principle of military Subordination and which cannot again pass unnoticed. A very dangerous practice having been introduced by the enemy of laying under Paroles the whole country through which they are at any Time able to March and thereby attempting to disarm its future opposition, has rendered it necessary for Government to take up and reprobate the Idea that any citizen may thus cancel his Duties to his Country. I enclose you a number of proclamations on this subject, and desire that you will put one into the Hand of every Captain in your County with orders to read it at the Head of his Company at every private muster during the present Year.

Such is the present aspect of the enemy towards this Country that no Foresight can predict the moment at which your Militia will be called into active Duty. Let me exhort you therefore and through you your Officers and men to consider that moment as if now come that every man who has or can procure a Gun have it instantly put into the best order a Bayonet fitted to it, a Bayonet belt, Cartouche Box, Canteen with its strap, Tomahawk, Blanket and knapsack. Some of these articles are necessary for his own safety and some for his Health & Comfort. The constant exhausture of the Public Stock of these Articles by calls from all Quarters renders it vain for the Militia to expect to be supplied from thence when they come into the Field, and nothing is so easy as for every man to have them prepared while quiet and at Home. The cartouche box with a leathern Flap, a wooden canteen with its strap and a knapsack of thick linen (the better if plaid) are what may be had in any man's family and there are few neighborhoods which do not afford artificers equal to the repair of a Firelock and furnishing it with a Bayonet. Let me then again to entreat you, Sir, not only to give out in General Orders to Your Captains that these preparations be instantly made but see yourself as far as possible that your orders be carried into execution. The soldiers themselves will thank you when separated from Domestic Accommodation they find through your attention to their happiness provided with conveniences which will administer to their first wants. When you order them into service it will be

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proper that you order them to bring these things with them. Consider also the sending a waggon with every seventy five men as a standing rule and that the Officer who attends to lay in Provisions for the men on the road always return to the Auditors a list of the certificates he gives stating the name, Article Price and Date in separate columns. These are circumstances always necessary and as in the first hurry of an Invasion when it is necessary to write an infinity of Letters and give a multiplicity of orders, it is not practicable then to enter into these details, I wish now to lay them down to you as standing rules which may save the necessity of repeating them in future on every special occasion. I must request you to make diligent enquiry and search your county for any Public Arms or Accoutrements in the Hands of Individuals to collect them together and make report of them to me.

PROCLAMATION CONCERNING PAROLES.[1]

By His Excellency, Thomas Jefferson, Esqr., Governor of the Commonwealth of Virginia.

A Proclamation.

Whereas during the incursions which have been made into this and other of the United States, by the forces of his Britannic Majesty, a practice hath been introduced by them, unauthorized by the law of Nations, and attempted in any age, or by any other enemy, of seizing peaceable citizens while in their beds or employed in domestic occupations, and extorting from them paroles that they will not, on pain of life and fortune, be aiding or assisting in any respect to the enemies of Great Britain ; which paroles such citizens have given sometimes through ignorance and other times with wicked design, while they enjoy all the benefits of Government to shift from themselves their just share of its burthens, and it is even believed that instances have not been wanting where they have voluntarily gone in to the Enemy and tendered such paroles ; and the Laws of this Commonwealth not permitting any Citizen thereof taken under such circumstances,

[1] From *Calendar of Virginia State Papers*, I, 445.

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or otherwise than when in arms by order, of a proper officer, to enter into engagements with the public enemy which may withdraw from his country those duties he owes to it. To the end, therefore, that none may be induced to the like act hereafter, through ignorance of the Law either real or pretended, apprised of their nullity at the time of giving or taking such paroles or engagements, I have thought fit, with the advice of the Council of State, to issue this my Proclamation, hereby declaring and making known, That Citizens taken or yielding themselves in the manner before described are incapable by law of contracting engagements which may cancel or supercede the duties they owe to their Country while remaining in it, and that notwithstanding such paroles or engagements, they will be held to the performance of every service required by the laws in like manner as if no such parole or engagement had been entered into.

And whereas some Citizens who have already entered into such engagements, may expect to withhold their duties under pretence of being bound in conscience, notwithstanding their legal disabilities to contract them, and it is inconsistent with the spirit of our Laws and Constitution to force tender consciences; I do, therefore farther publish and declare, That all Citizens taken or yielding themselves in the manner before described, who conceive themselves under such conscientious obligation to refuse obedience to the Laws of their Country, are hereby authorized and required, taking passports as hereafter provided, forthwith to repair to some of the posts, encampments or vessels of the forces of his Brittannic Majesty, and by surrender of their persons, to cancel such their engagements, and thereafter to do, as to themselves and those in whose power they shall be, shall seem good, save only that they shall not rejoin this Commonwealth but in a state of perfect emancipation from its enemies, and of freedom to act as becomes good and zealous Citizens, and saving also their fidelity to the Commonwealth. And all Officers Commanding Forces either of this State or of the United States, who shall be nearest in their position to the said posts, encampments or vessels of the enemy, are hereby authorized and required, paying necessary attention to times, situations and circumstances, to grant passports to all such Citizens for the purposes beforementioned.

Given under my hand, and the seal of the Commonwealth, at

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Richmond, this nineteenth day of January, in the year of our Lord One thousand seven hundred and eighty one, and of the Commonwealth the Fifth.

CIRCULAR-LETTER TO THE COUNTY MAGISTRATES.

V. S. A.

IN COUNCIL, January 20th, 1781.

SIR,—The invasion of our Country by the enemy at the close of the late session of Assembly their pushing immediately for this Place the dispersion of the Public Papers which for the purpose of saving them necessarily took Place and the Injury done at the Printing Office have been so many causes operating unfortunately to the Delay of transmitting you the important Act for which I now enclose you. In the mean Time the days of Execution so far advanced that I am persuaded they must have passed over before it can be received in many Counties, in this case the only possible Measure to be advised is to adopt the earliest days possible. Could any legal scruples arise as to this there could be no doubt that the ensuing Assembly influenced by the necessity that induced them to press the Act would give their Sanction to its Execution though at a later Date than is prescribed. However the substance of the Act is to procure supplies of Beef Clothing and waggons. The Time of doing this is a Circumstance only and the Principle is sound both in Law and Policy. Substance not Circumstance is to be regarded while we have so many Foes in our bowels and environing us on every Side. He is a bad citizen who can entertain a doubt whether the Law will justify him in saving his Country or who will scruple to risk himself in support of the spirit of a Law where unavoidable Accidents have prevented a literal compliance with it. Let me exhort you, Sirs, should this Act come to Hand so late as to prevent your proceeding to its Execution by the Time prescribed, to have it executed as early as possible. No man can say this will be an injury to him because the Times were affixed to compel an early compliance. The delay of which some Days must rather be matter Indulgence. Persons will be appointed to receive the waggons & appendages to be furnished by your County who shall give you notice of the Place of Delivery in due time.

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TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

IN COUNCIL, January 20th 1781.

DEAR GENERAL,—I will send to Mr. Brown the Commissary the Paragraph from your letter relative to Provisions with orders to him to take measures for relief. At the same time I wish the Principal expenditures could be in Indian meal that the Flower might be kept as much as possible for the Summer's use. Majr Hollier has no authority to make exchange Prisoners with the enemy. The enclosed Proclamation will shew you the Principles on which we approved to wit that a citizen shall be considered as a soldier if he were taken in Arms, embodied as a soldier, and acting under the Command of his officer. You will perceive that the circumstances are necessary to distinguish from a citizen engaged in his domestic or other Occupations. Any equal exchange made on these principles and approved by yourself shall be considered as valid.

PROCLAMATION CONVENING ASSEMBLY.[1]

RICHMOND, January 23d, 1781.

By his Excellency, Thomas Jefferson, Esqr., Governor of the Commonwealth of Virginia.

A Proclamation.

Whereas it is become necessary that the General Assembly be called together before the time to which they stand adjourned: I Have therefore thought fit, with the advice of the Council of State, to issue this my proclamation, hereby appointing the first

[1] From *Calendar of Virginia State Papers*, I, 456.

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day of March next, for the meeting of the next General Assembly at which time their attendance is required at the Capitol in the Town of Richmond. Given under my hand & seal of the Commonwealth at Richmond aforesaid, this 23d Day of Jany. in ye year of our Lord 1781, & of the Commonwealth the fifth.

CIRCULAR-LETTER TO MEMBERS OF THE GENERAL ASSEMBLY. V. S. A.

IN COUNCIL, January 23d, 1781.

SIR,—I am sorry after so long and laborious a session of Assembly, the Public exigencies should be such as to call for an earlier meeting of the members than was intended. A proclamation has been this Day issued for convening you on the 1st of March and tho' that alone was necessary in point of Formality I could not deny myself the apprising you by letter of those circumstances which have rendered the measure necessary and which could not with propriety be explained in the Public Proclamation. Such is the load of Public Debt contracted by Certificates and such the preparations for the Summer to enable us to meet our enemies in the North, South, East and West, that before any considerable progress was made in paying the past and providing for the future, the whole sums allowed to be emitted were engaged. It became a matter of Certainty that in a few days we should be unable to move an express, repair an Arm or do any other the smallest thing tho the existence of the State should depend on it for want of money. It was impossible to think of hazarding the State in this condition through the months of February, March, April and probably May while we have an Enemy within our Country and others approaching it on every side. Information also from the General Officers brought us assurance that our Defence could not be rested on militia not to mention other Circumstances. Such we are assured is become their Impatience already, that they would give any consideration to raise Regulars rather than be kept in service themselves. Though the Commanding Officer has determined to reduce them to 2900. Infantry there

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will be considerable Difficulty in keeping that number in the Field. Men and money therefore will be the subject of Your Deliberations. I make no doubt but some legislative aid may also be rendered necessary for the executions of the Acts for recruiting men and procuring Beef, Clothing and Waggons. The absence of the militia from their Counties has thrown very great Obstacles into the way of the former and the latter was ingrafted on that as its stock. The destruction of one of the Printing Presses and the injury done the others has delayed the printing the latter Act with the other papers necessary to be sent out till it is become certain the Days of setting them into a train of execution will be passed before it will be received. The zealous Citizen unable to do his duty so soon as was prescribed will do it as soon as he can, but the unwilling will find much room for objection which the authority of the Legislature alone will be able to remove. Not apprehending that the Assembly when convened at so unusual a season will propose to go general Business, I have reason to hope that you will be detained here a very few Days only. Besides the general Dispatch which will ensure your punctual Attendance on the Day appointed let me adjure it on the ground of the Public Distress which will accumulate in the most rapid Progression should the meeting be delayed by Failure of the members to attend.

TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHMOND January 25th, 1781.

SIR,—I gave orders to Mr. Brown to send you a sufficiency of Flour to fill up any intervals which might happen between your supplies of Indian meal. We think the Stands of Arms you have directed to be purchased at Baltimore are a great Bargain if they be really good and will certainly find means of paying for them. The corn at Cumberland was Continental

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property having been delivered to Col. Finnie long ago. On the present invasion we had that with other Public Stores moved up to New Castle as a place of greater safety. The other stores indeed we meant to withdraw to other Places: but not the corn. However I learn that our Quarter Master has in distress for that Article been obliged to send for some of it for his Horses here, and we have lately ordered a considerable number of Public Horses too poor for service to be carried and fattened there; by which means we shall save so much of it to the Continent. We have determined to convene the Assembly on the first Day of March. The printer will enable us to send out the Laws which require immediate Execution this week. I make no doubt but by that Time you will have received either from their Counties or from Baron Steuben so many of the militia meant to be retained as will enable you to discharge the others. Indeed the Baron Steuben means to reduce the number originally intended to 2700 Infantry which will enable him to send back those of a greater number of Counties. With Respect to the Paroled Men my sentiments are these. Had I unwarily entered into an engagement of which the Laws of my Country would not permit me to fulfill I should certainly deliver myself to the enemy to cancel that engagement and free my personal Honour from Imputation. Nevertheless if any of them chuse to remain and to perform freely all legal Duties, I do not know that Government is bound to send these people in to the Enemy. It is very dif-

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ferent from the Case of a Military Officer breaking his Parole, who ought ever to be sent in. We deny the propriety of their taking Paroles from unarmed Farmers. But as in any event the only justifiable Punishment of a Breach of Parole is Confinement, so should the enemy hang a single man for this Cause, we will instantly retaliate by hanging their Prisoners in equal number. This may be declared to the paroled men who you say are ready to take arms. Mr. Granville Smith received yesterday a warrant for £20000 for the contingent expences of your Camp, to be called out only on your order. As the money Press is not yet at work it will be some Days before he will get it.

P.S. Mr. Brown just informs of your application for spirits. There is not a Hogshead belonging to the State, but very great Quantities in the hands of the Continental Commissaries. I have special Returns of upwards of twenty thousand Gallons delivered them by the Commissioners of the Provision Law and no Doubt great quantities of which there is no return. As on actual invasions all reasonable expences are Continental you are undoubtedly authorized to call on their Commissaries or should you have a doubt Baron Steuben will clear it up. A Mr. Lyon one of those Commissaries at York can certainly supply you. I would observe to you that Baron Steuben informed me in Conversation that Spirit would be allowed as a part of the Daily ration but only on particular occasions.

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TO THE VIRGINIA DELEGATES IN CONGRESS.

RICHMOND. January 26th, 1781.

GENTLEMEN,—I shall now beg leave to answer your Letter of the first inst which enclosed a Paper from Baron de Arendt. Mr. William Lee was some Time ago invested with a special Agency from this State having received however no instructions from him of his having engaged any other Person to transact any Part of it, we are uninformed as to his Stipulations with the Baron de Arendt. If he has left the particular one for twenty five Louis unfilled we think ourselves bound to discharge which we will do in such Sum of paper money as may purchase that quantity of hard money in Philadelphia for there being no hard money here there is no fixed exchange. If you will therefore settle the Sum with him we will make the Remittance either in Money or by answering a Bill or otherwise as shall be most practicable. After a variety of Trials to effect the Cloathing of our Troops and procuring of military Stores and failing in them all a particular Institution has been adopted here for those Purposes. Into this Channel all our means must be turned to enable it to be effectual. Our situation is too well known to suppose we have anything to spare. It is therefore not in our power to enter into the commerce with Prussia proposed by the Baron de Arendt however desirous we are of opening a Communication with that respectable State and willing under every other Circumstance to effect it by great Sacrifices were Sacrifices necessary. Should the subjects of Prussia

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chuse to adventure on Private Trade with our Citizens every Facility and encouragement in our power will be certainly afforded. As the Speaker sets out within three or four Days for Philadelphia and can so much more fully explain to you by words the steps taken for support of our Opposition to the common enemy, I shall decline answering that Paragraph of your Letter and beg leave to refer you to him.

TO BENJAMIN HARRISON.[1] V. S. A.

RICHMOND. January 29th, 1781.

Sir,—Several matters of Public Importance resting on the Hands of the Executive to be transacted to the Northward we beg leave to avail ourselves of your Journey thither to get them settled being satisfied they may be much better done on your verbal representations than by anything that may go in writing from us. The trade has been carried on to a very small extent between this State and the Bermuda Islands. This was begun under a resolution of Congress permitting the exportation of a certain Quantity of Corn from this State to Bermuda. We required the Bermudians to come for it and to bring a bushel of Salt in exchange for every two of corn. Our distress for Salt increasing we continued the License and in the last Summer gave three Bushels of Corn for one of Salt. Some Tobacco also was allowed in exchange but few vessels (I think not more than half

[1] Harrison was about going to Philadelphia as a sort of special agent of Virginia to the Congress.

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a dozen) have come on that business. Whether the number may increase or not I cannot say, but I think the Trade necessary and could wish its continuance without Umbrage to Congress or the French minister. A Trade with vessels reporting themselves as from neutral Ports but in truth as we believe from Ireland has also been winked at. This is more exceptional on the part of the States and their allies and less advantageous to us. We have indeed received occasional supplies of Cloathing from them, but we might have bought on nearly as good terms in America, and thereby avoided risking the mischiefs which may attend the Permission of Irish Importations. Should our Commercial Agent be successful in his endeavours to supply our future Public wants, this powerful reason for tolerating the Trade will be removed. There will then remain no other Inducement to it, but as it will increase the quantity of goods imported into the State, but whether the Advantage be great or small we will willingly place this Commerce on whatever Footing shall be thought requisite for the Good of the States & their Allies.

The removal of the Convention Troops was determined on by the Executive on the invasion of this State which took Place in the last Fall and was effected as to the British Division about 800 in number. The Germans 1400 in number being thought less dangerous were permitted to remain till Accommodations could be provided for them in Maryland. Congress having afterwards directed that they should not be removed and our Assembly that they should, the

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Executive are placed in a very disagreeable situation, we can order them to the banks of the Potomac, but our Authority will not land them on the opposite shore. Besides prohibiting the removal of those remaining here they have required us to furnish half the Provisions for those gone to Maryland. I beg leave to refer you to my letters to the Board of War and to Governor Lee on this subject a copy of which is furnished you from whence you will see the grounds on which I have remonstrated against this latter Requisition and on which I should have remonstrated against the former also but that I wish to avail myself of your more forcible representation in Person.

A Mr. Patoun of Baltimore sent us some Cartridge Boxes, they were brought in a vessel of Mr. Braxton's to Annapolis, where the vessel being sold they were left and I have heard of nothing of them since. I must beg the Favour of you to get them brought on if possible. Any supply of the same Article as also of Cartridge Paper and Flints which the Board of war can send on are esentially wanting.

Peret & Co of France sent us a quantity of Stores in a vessel called Le Comite she was taken on her passage retaken and carried into Rhode Island where on Condemnation the one half of our Part of her cargo has been decreed to us. I take the Liberty of putting into your Hands the Papers on this Subject. Our Delegates have been endeavouring to have them brought on hitherto without effect. The Salt indeed had better be sold there but the Arms, Clothing and other Articles are so much wanting that we should

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be so much obliged to you to adopt an effectual mode of having them brought hither by hiring a trusty Agent to go and bring them in waggons attending them himself, or in any other way you find most practicable and expedient. Congress being considerably indebted to us in the Article of Powder I lately wrote to desire from five to ten tons to be sent to this Place, it is essentially necessary that we send four Tons more to Fort Pitt and that it be there by the 1st Day of March, the Statement with which you are furnished by our Advances of Powder to the Continent will inform you how far we have a right to make this call. I must trouble you to procure from them at Baltimore if possible and if not then at Philadelphia the four Tons before mentioned and to send them under a trusty Person in waggons to Fort Pitt to be delivered to the order of Colo. Clarke or other Person acting under them the Residue or as much of it as can be got should be brought here at Continental Expence.

TO ——[1] J. MSS.

RICHMOND Jan. 31, 1781.

SIR,—Acquainted as you are with the treasons of Arnold, I need say nothing for your information, or to give you a proper sentiment of them. You will readily suppose that it is above all things desirable to drag him from those under whose wing he is now sheltered. On his march to and from this place I am certain it might have been done with facility by men

[1] Probably to George Rogers Clarke.

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of enterprise & firmness. I think it may still be done though perhaps not quite so easily. Having peculiar confidence in the men from the Western side of the Mountains, I meant as soon as they should come down to get the enterprise proposed to a chosen number of them, such whose courage & whose fidelity would be above all doubt. Your perfect knowlege of those men personally, and my confidence in your discretion, induce me to ask you to pick from among them proper characters, in such number as you think best, to reveal to them our desire, & engage them to undertake to seize and bring off this greatest of all traitors. Whether this may be best effected by their going in as friends & awaiting their opportunity, or otherwise is left to themselves. The smaller the number the better; so that they be sufficient to manage him. Every necessary caution must be used on their part, to prevent a discovery of their design by the enemy, as should they be taken, the laws of war will justify against them the most rigorous sentence. I will undertake if they are successful in bringing him off alive, that they shall receive five thousand guineas reward among them. And to men formed for such an enterprise it must be a great incitement to know that their names will be recorded with glory in history with those of Vanwert, Paulding & Williams. The enclosed order from Baron Steuben will authorize you to call for & dispose of any force you may think necessary, to place in readiness for covering the enterprise & securing the retreat of the party. Mr. Newton the bearer of this, & to

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whom its contents are communicated in confidence, will provide men of trust to go as guides. These may be associated in the enterprise or not, as you please; but let that point be previously settled that no difficulties may arise as to the parties entitled to participate of the reward. You know how necessary profound secrecy is in this business, even if it be not undertaken.

TO THE GOVERNOR OF MARYLAND. (THOMAS SIM LEE.) V. S. A.

RICHMD. Febry. 1st, 1781

SIR,—I am much obliged by your Excellency's favour of Januy 5th. Joseph Shoemaker is a citizen of this State and been a active mischievous traitor. The dangers of escape on the road from Baltimore to this place, and from this place, where since our removal from Wmsburg no public jail has been yet erected, are so great as to induce me to suggest to your Excellency the trial and punishment under your laws, should he have committed any depredation within your State which they would punish capitally; and in this case I will on intimation from your Excellency furnish you with proofs of his citizenship authenticated in any way in which your Laws shall require. Should he not be amenable to justice under your Laws, or should he be acquitted on trial, I will on information thereof take immediate measures for having him received, & brought hither.

I have been honoured with a letter from the Honourable Mr Jenifer, President of your Senate and Mr Bruff, Speaker of the house of Delegates propos-

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ing that we should invite our allies the French to take a post within our State convenient for the defence of Chesapeake Bay and desiring a communication on the subject with your Excellency. The difficulties on this head will certainly not arise with us. Should our allies not have a certainty of obtaining and keeping a superiority of naval power in the American Seas, they will probably think any post on the navigable waters of the Chesapeake liable to loss. As a discussion of this matter with the French minister required full information to him of the various posts and grounds which they might think fitted for defence as well as for overlooking the Bay, by their conveniency to aid from the country and many other circumstances which might draw the correspondence, if on paper, to a great length I have thought it best to desire the Honble Mr Harrison speaker of our house of Delegates who set out for Philadelphia two days ago, to speak with the French minister on the subject and to give him every information which may be necessary to determine his opinion.

I had during the last summer taken the liberty of solliciting from him some naval force to be stationed on our bay, and received hopes that it might be done, just when the enemy who are now within this State came into the bay. I am afraid the proof they have exhibited of the practicability of making inroads into our country when conducted with rapidity and aided by wind and waters, will rather discourage our allies from hazarding much in any situation which may be pointed out.

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PROCLAMATION CONCERNING FOREIGNERS. V. S. A.

RICHMOND, February 5, 1781.

By His Excellency Thomas Jefferson, Esqr., Govn. of the Commonwealth of Virginia

A Proclamation.

Whereas Congress considering that it had been the wise policy of these States to extend the protection of their Laws to all those who should settle among them of whatsoever nation or religion they might be, and to admit them to a participation of the Benefits of Civil and religious freedom, and that the Benevolence of this practice, as well as its salutary effects had rendered it worthy of being continued in future times: That his Britannic Majesty in order to destroy our Freedom and Happiness, had commenced against us, a cruel and unprovoked War, and unable to engage Britons sufficient to execute his sanguinary measures, had applied for aid to Foreign Princes, who were in the habit of selling the blood of their people for money, and from them had procured and transported hither, considerable number of Foreigners; and it was conceived that such Foreigners, if apprised of the practice of these States would chuse to accept of Lands, Liberty and Safety and a Communion of good Laws and mild Government, in a Country where many of their Friends and relations were already happily settled, rather than continue exposed to the toils and Dangers of a long and bloody War, waged against a people guilty of no other Crime, than that of refusing to exchange freedom for Slavery: And that they would do this the more especially, when they should reflect they had violated every Christian and moral precept by invading and attempting to destroy those who had never injured them or their Country, their only reward, if they escaped Death and Captivity, would be, a return to the Despotism of their Prince, to be by him again sold to do the drudgery of some other Enemy to the rights of Mankind: and that our enemies had thought fit, not only to invite our Troops to desert our service, but to compel our citizens falling into their hands to serve against their Country, Did resolve, that these States would receive all such foreigners who should leave the armies of his Britannic Majesty, in America and should chuse to

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become members of any of these States, and that they should be protected in the free Exercise of their respective religions, and be invested with the rights, privileges, and immunities of natives as Established by the Laws of these States, and moreover that they would provide for every such Person 50 Acres of un-appropriated Lands in some of these States to be held by him and his Heirs in Absolute property.

I therefore have thought fit, by and with the advice of the Council of State, to issue this my Proclamation, hereby notifying more generally the said Engagement of Congress, and further promising to all such Foreigners, who shall leave the armies of his Britannic Majesty while in this State, and repair forthwith to me at this place, that they shall receive from this Commonwealth a further donation of two Cows and an exemption during the present War, and their continuance in this State, from all taxes, for the support thereof, and from all Militia and Military Service. And moreover that they shall receive a full compensation for any arms or accoutrements which they shall bring with them, and deliver to the Commanding officer at any of the Posts holden by our Forces, taking his receipt for the same.

Given under my hand and the Seal of the Commonwealth at Richmond, this Second day of February in the year of our Lord 1781 & of the Commonwealth the fifth.

TO BENJAMIN HARRISON. V. S. A.

RICHMOND. Febry 7th, 1781.

SIR,—The enclosed papers will sufficiently explain themselves to You. They were put into my hands by Colo. Mathews together with a requisition from Congress to furnish 14,492 hard dollars to pay the debts of our prisoners in New York. Were we permitted to send produce, we could do it for less than half of what the hard dollars will cost us, & I think such articles might be selected from the within, espe-

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cially when that of coal is added (which Colo Mathews assures me will be done) as would do neither good to the enemy nor injury to us. Coal sells in New York at six guines the chauldron. Colo. Mathews assures me that the enemy has never experienced the least inconvenience from a want of provisions since he has been in captivity; that indeed before the arrival of the Cork fleet they began to be apprehensive, but he thinks they have now near a twelve months provision. Taking this into consideration with the great alleviation of the maintenance of our prisoners which it would bring to us, perhaps you could negotiate a permission to us to send some of these articles to New York & Charleston.

TO THE PRESIDENT OF CONGRESS.[1]

(SAMUEL HUNTINGTON.) J. MSS.

RICHMOND, Feby 8. 1781.

SIR,—I have just received intelligence, which tho from a private hand, I believe is to be relied on, that a fleet of the enemy's ships have entered Cape Fear River, that eight of them had got over the Bar & many others were laying off; that it was supposed to be a reinforcement to Ld Cornwallis under the command of Genl. Prevost. This account which had come through another channel is confirmed by a letter from Genl. Parsons at Halifax to the gentleman who forwards it to me. I thought it of sufficient importance

[1] A letter to Washington of the same date and tenor is printed in Washington's edition, I, 291.

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to be communicated to your Excellency by the Stationed expresses. The fatal want of arms puts it out of our power to bring a greater force into the field than will barely suffice to restrain the adventures of the pitiful body of men they have at Portsmouth. Should any others be added to them, this country will be perfectly open to them by land as well as water.

TO COLONEL THEODORIC BLAND. V. S. A.

RICHMOND, Feby 9th, 1781.

SIR,—I received yesterday your letter inclosing that of Colo Dubuysson. It gives us great pain that we are not able to do what is desired by that gentleman. I shall not rest this merely on the determination of the Executive not to exchange Govr. Hamilton at all while matters on our frontier are situated as at present, a determination founded as well on the possibility of real injury he would be enabled to do as on the apprehensions which the Western Country entertain of his eager enmity against us & influence with the savages. It is well known that the whole Line of Officers belonging to Virginia and North Carolina were taken some months before the captivity of Colo Dubuysson, and stand previously entitled to exchange on the just principle of regular rotation. Exchanges out of turn have already given great disgust, not only to those who have been passed by but to the officers in general who find themselves exposed to the danger of a like insult. I leave to yourself,

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Sir, to judge what would be the complaints were we to consent to the exchange in question, passing over a whole army whose officers stand first entitled; these complaints would be more distressing as they would be founded in justice, and would admit no possibility of answer. The same reasons are good against parole exchange of such extent as the one proposed. I hope therefore that Colo Dubuysson will see this matter in its proper light and be satisfied that nothing but a sense of its being clearly against our duty prevents our concurrence in a measure leading so much to his relief and which is stated as eventually interesting to the family of Baron de Kalb, to whom gratitude would induce us to render every service reconcilable to that justice which is due to others.

TO MAJOR-GENERAL NATHANAEL GREENE. V. S. A.

RICHMOND, Feby 10th, 1781.

SIR,—I now do myself the pleasure of transmitting you information on the several heads of your requisitions. I am sorry that full compliance with them is impracticable. Every moment however brings us new proofs that we must be aided by your Northern Brethren. Perhaps they are aiding us and we may not be informed of it. I think near half the Enemy's force are now in Virginia and the States south of that. Is half the burthen of opposition to rest on Virginia and North Carolina? I trust you concur with us in crying aloud on this head.

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I sincerely rejoice with you on Genl Morgan's late important success. Besides the real loss sustained by the Enemy in the force they were moving against us, it will give us time to prepare for the residue. The prisoners taken on that occasion, I shall certainly take the liberty of handing on Northwardly thro' this State, for the reason for doing this I beg leave to refer you to the enclosed.

Dr. Brownson received £75000, equal to £1000 specie; for the balance he must wait until the Assembly meets. I hope they will determine to make up their quota of men fully. I have the pleasure to inform you that we have reason to expect during the two ensuing months, very full supplies of all necessaries for our Army from France, on a contract we had made the last Spring. I hope too that their Escort is such as not only to render their entrance secure but to promise something further.

TO BRIGADIER-GENERAL GEORGE ROGERS CLARK. V. S. A.

IN COUNCIL, Feby 13th, 1781.

SIR,—Still having at heart the success of the expedition at the head of which you are placed, we have obtained leave from Baron Steuben for Colo Jo Gibson to attend you as next in command, and of course to succeed to your offices in event of your death or captivity which however disagreeable in contemplation, yet as being possible it is our duty to provide against. I have further added my most pressing request to Colo Broadhead that he permit

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Colo Gibson's regiment to be added to Your force for the expedition, a request which I hope will be successful as coinciding with the spirit of Genl Washington's recommendations. Colo Gibson is to go to Baltimore to see the powder conveyed to Fort Pitt. The articles which were to be sent from this place to Frederick County were duly forwarded a few days after you left us. I wish you laurels and health & am with respect &c.

CIRCULAR-LETTER TO COUNTY LIEUTENANTS. V. S. A.

RICHMOND Feby 15th, 1781.

SIR,—I have just received intelligence from Genl Greene that Lord Cornwallis, maddened by his losses at the Cowpens and George Town, has burnt his own waggons to enable himself to move with facility, and is pressing towards the Virginia line, Genl Greene being obliged to retire before him with an inferior force. The necessity of saving Genl Greene's army and in doing that the probability of environing and destroying the army of the Enemy induce me to press you in the most earnest terms, in the instant of receiving this to collect one of your militia and send them forward well armed and accoutred under proper officers to repair to the orders of Genl Greene wherever he shall be. By this movement of our Enemy he has ventured his all on one stake. Our stroke is sure if the force turns out which I have ordered & without delay in such a crisis expedition decides the event of the contest.

Reflecting that it depends in a great measure on your personal exertions in effecting an active junction of your men with Genl Greene whether the Southern war be terminated by the capture of the hostile army or entailed on us by permitting them to fix in our bowels, I cannot believe you will rest a moment after receiving this untill you see your men under march. They must be subsisted on their way on whatever can be furnished by any persons holding public provisions, or by impressing under the inva-

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sion law, returning to the Auditors lists of the certificates they give, and by taking provisions with them for which they shall be allowed by way of rations.

This order necessarily interrupts the execution of the draught law; it would be too oppressive on those spirited men who shall now turn out, to have that law carried into execution, when they should not be on the spot to act for themselves. I would therefore advise you to postpone it until their return and I will undertake to lay it before the Assembly which is shortly to meet who I cannot doubt will approve of the suspension and allow the execution of the law at a future day.

Should the approach of danger and your public spirit have already called any men from your County to the aid of General Greene they will be counted in lieu of so many of the number now ordered.

TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHMOND Feb. 16th 1781.

SIR,—I am very anxious to prepare for co-operation with our allies and for providing for their support. For ye former purpose measures are taking as agreed on this moment in a conference with Baron Steuben, for the latter we suppose Yorktown the most effectual to prepare as an assylum for their vessels. Colo. Senf comes down with instructions to point what may be done there in a short time. The Baron will send Colo. Harrison or some other artillery officer to superintend the execution of what he shall plan; and I must resort to Your influence to take such measures as may call in a sufficient number of labourers with their tools to execute the work. Whatever you do for this purpose shall be approved

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by us. The county alone can probably furnish many hands. Those in the neck I trust will also be forwarded.

CIRCULAR LETTER TO THE COUNTY LIEUTENANTS OF BERKELEY AND FREDERICK. V.S.A.

RICHMOND. Febry 16th, 1781.

SIR,—I have with exceeding distress of mind received information that the service to which the militia of the Counties of Frederick & Berkely have been called Westwardly is so disagreeable as to render it probable that call will be very imperfectly obeyed. A knowledge that an extensive combination of Indians had been formed to come on our frontier early in the Spring induced us to prevent them by striking the first stroke. The counties West of the Allegany were called on in the first place, and their numbers not sufficing it was concluded to make them up by a call on some of the Counties on this side of the Allegany. Those of Hampshire, Berkely & Frederick were deemed the most proper as being nearest to Pittsburg and farthest from the Southern war, the expedition if carried to the greatest extent would end by the last of June. Should this expedition be discontinued, the savages will be spread on our whole western frontier; in that case not a man can be brought during the whole summer from the western side of Blue ridge; and what will be the consequence of bringing the army of Ld. Cornwallis and the army of Portsmouth to be opposed by the lower Country only, I would rather the friends of their country should reflect than I foretell. We are all embarked in one bottom, the Western end of which cannot swim while the Eastern sinks. I am thoroughly satisfied that nothing can keep us up but the keeping of the Indians from our Western quarter; that this cannot be done, but by pushing the war into their country; and this cannot be attempted but with effectual aid from those counties. This reasoning is simple, and the conclusion of it melancholy. A hope is held out to us that an aid as effectual can be obtained from your County by the engaging volunteers to go in-

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stead of the militia. Trusting to this assurance and the zeal of your people which never before has failed us, I will so far throw our safety on them, as to revoke the orders for their peremtory march as militia, and depend on their sending a sufficient number of volunteers. These volunteers must proceed according to the orders given as to the militia except that some extention of time must be admitted. This I leave to your discretion. Be punctual in advising Genl. Clarke & myself from time to time of your progress and expectations.

TO MAJOR-GENERAL NATHANAEL GREENE. V. S. A.

RICHMOND. Feby 17th, 1781.

SIR,—In the moment of receiving your letter of the 10th I issued orders to the Counties of Washington, Montgomery, Botetout and Bedford for seven hundred and odd riflemen, and to those of Henry & Pittsylvania for four hundred and odd of their militia. Yet my trust is that neither these nor the adjacent counties have awaited orders, but they have turned out and will have joined you in greater numbers than we have directed. The reinforcement from Cheserfd Court House cannot march these ten days. I shall be glad if you will call on the neighboring County Lieutenants for any succours which you may want, and circumstances forbid to be delayed. A minute communication of events will be very necessary as we wish as far as we are able to increase the opposing force, if that already ordered shall be insufficient. This change of position has thrown us into great doubt where to collect our provisions.

Two days ago I received notice of the arrival of a 64 gun ship, and two frigates of 36 each part of the

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French fleet at Rhode Island having yet had no communication of the views of the Commanding officer (Commodore Tilly) I cannot say to what measures this aid will lead. They are equal to the destruction of the British vessels, could they get at them, but these are drawn up into Elizabeth river into which the 64 cannot enter.

P. S. Since writing the above we are told Ld. Cornwallis has advanced to the Roanoke. I am in consequence issuing orders to embody every man between this and that for whom a firelock can be procured and that they march to join you.

TO GENERAL WASHINGTON. W. MSS.

RICHMOND Feby 17, 1781.

SIR,—By a Letter from General Greene dated Guilford C. house Feby 10 we are informed that Lord Cornwallis had burnt his own waggons in order to enable himself to move with greater facility & had pressed imediately on. The prisoners taken at the Cowpens were happily saved by the accidental rise of a water course which gave so much time as to withdraw them from the reach of the enemy. Lord Cornwallis had advanced to the vicinities of the Moravian towns & was still moving on rapidly. His object was supposed to be to compel Genl Greene to an action, which under the difference of force they had would probably be ruinous to the latter. General Greene meant to retire by the way of the Boyds ferry on the Roanoke. As yet he had lost little or no stores

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or baggage, but they were far from being safe. In the instant of receiving this intelligence we ordered a reinforcement of militia to him from the most convenient counties in which there was a hope of finding any arms. Some great event must arise from the present situation of things which for a long time will determine the condition of southern affairs.

Arnold lies close in his Quarters. Two days ago I received information of the arrival of a 64 gun ship & two frigates in our bay, being part of the fleet of our good ally at Rhode Island. Could they get at the British fleet here they are sufficient to destroy them, but these being drawn up into Eliza. river, into which the Sixty four cannot enter, I apprehend they could do nothing more than block up the river. This indeed would reduce the enemy, as we could cut off their supplies by land: but the operation being lengthy would probably be too dangerous for the auxiliary force. Not having yet had any particular information of the designs of the french commander I cannot pretend to say what measures this aid will lead to.

Our proposition to the Cherokee chiefs to visit Congress for the purpose of preventing or delaying a rupture with that nation was too late. Their distresses had too much ripened their alienation from us, and the Storm had gathered to a head, when Major Martin got back. It was determined to carry the war into their country rather than await it in ours, and thus disagreeably circumstanced the issue has been successful.

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The militia of this State & N. Carolina penetrated into their country, burnt almost every town they had amounting to about 1000 houses in the whole, destroyed 50,000 bushels of grain killed 29 & took 17 prisoners. The latter are mostly women & children. I enclose your Excellency the particulars as reported to me. Congress will be pleased to determine on Col. Campbell's proposition to build the fort at the confluence of the Holston and Tennessee.

I have the honor to be, &c., your Excellency's most obedient humble servant.

P. S. Since writing the above I have received information which tho' not authentic deserves attention: that Ld Cornwallis had got to Boyds ferry on the 14th. I am issuing orders in consequence to other counties to embody & march all the men they can arm. In this fatal situation without arms there will be no safety for the Convention troops but in their removal, which I shall accordingly order. The prisoners of the Cowpens were at New London (Bedford Court house) on the 14th.

TO MAJOR-GENERAL HORATIO GATES (?). J. MSS.

RICHMOND Feb. 17 1781.

DEAR GENERAL,—The situation of affairs here & in Carolinea is such as must shortly turn up important events one way or the other. By letter from Genl Greene dated Guilford C. house, Feb. 10 Ld. Cornwallis rendered furious by the affair at the Cowpens & surprise of George town had burnt his own waggons to enable himself to move with facility had pressed

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on to the vicinities of the Moravian towns & was still advancing. The prisoners taken at the Cowpens were saved by a hair's breadth accident, and Greene was retreating. His force 2000 regulars and no militia, Cornwallis's 3000. Genl Davidson was killed in a skirmish. Arnold lies still at Portsmouth with 1500 men. A French 64 gun ship & 2 frigates of 36 each arrived in our bay three days ago. They would suffice to destroy the British shipping here (2 40. frigates & a 20) could they get at them. But these are withdrawn up the Elizabeth river which the 64 cannot enter. We have ordered about 700 riflemen from Washington Montgomery & Bedford, and 500 common militia from Pittsylvania & Henry to reinforce Genl. Greene, and 500 new levies will march from Chestfd C. H. in a few days. I have no doubt however that the Southwestern Counties will have turned out in greater numbers before our orders reach them.

I have been knocking at the door of Congress for aids of all kinds, but especially of arms ever since the middle of summer. The Speaker Harrison is gone to be heard on that subject. Justice indeed requires that we should be aided powerfully. Yet if they would repay us the arms we have lent them we should give the enemy trouble tho' abandoned to ourselves.

After repeated applications I have obtained a warrant for your advance money £18,000 which I have put into the hands of Mr. McAlister to receive the money from the Treasurer & carry it to you.

I am with very sincere esteem dr Genl. your friend & serv.

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TO MAJOR-GENERAL BARON STEUBEN.[1]

RICHMOND, February 19th, 1781.

SIR,—The prisoners in Albemarle were ordered to be removed immediately, giving them time only to pack their baggage, that it might follow them in Waggons. Those taken at the Cowpens which were at New London on the 14th inst. were likewise ordered Northwardly by the way of Staunton keeping above the Blue Ridge, while the Conventioners pass below it. These orders were issued at the same time with those for embodying the Militia and have been notified to Congress and Genl. Washington.

By a letter from Count Rochambeau to Genl. Washington, a Copy of which is transmitted me, it appears that some French Frigates were out a cruising from Newport.—that two 74s and a Frigate were sent out by the British to take them, that a storm came on which drove one of the 74s. ashore on Montuck Point, and obliged the other to put back into Gardners' Bay dismasted, and the Frigate also to put back tho' without injury: and forced the French Frigates back to port, which they reached in safety; that this accident had given the French Fleet a superiority; whereon the Chevalr. de Touche was determined to send a line of Battle Ship, and two Frigates to cruise off the Capes of Chesapeake and break off the communication between New York and Charlestown. This letter is dated Jan. 9th. we are therefore to suppose the French Vessels now here to have come in consequence of the above and to hope they are in no danger.

[1] From the Sparks MSS., Harvard College.

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TO BRIGADIER-GENERAL GEORGE ROGERS CLARK.

V. S. A.

RICHD. Febry. 19th 1781.

SIR,—I received your letter on the subject of the backwardness of the militia of Berkely & Frederic to proceed Westwardly, and had before received representation from the Counties. This circumstance was the more mortifying as we were informed from various quarters that should we persist in the order it would produce an open disobedience. Many circumstances concurred to render it prudent to avoid this. The presence of two armies of the enemy within the state induced us to wish to prevent everything like commotion or opposition to Government in every part of it. As therefore the representations were accompanied with hopes held out of raising a respectable number of volunteers, the Board thought it prudent to accept of that offer. These two counties were relied on for 56 men; on view of this disappointment we obtained an order from Baron Steuben for Colo John Gibson with his regiment & Heth's company (about 200 regulars) to be added to your command: an addition of more worth of itself perhaps than the militia, more especially if any number of volunteers should go. I hope too you will receive greater numbers from Kentucky than we counted on, and aids from the French settlements: we are apt to hope what we much wish, and perhaps this is my case.

The enclosed papers give us real concern as they hold out reason to apprehend great abuses in the

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Western quarter. I transmit them to you to have strict enquiry made (not by yourself for your time is otherwise better engaged) but by such persons of known integrity & character as you shall appoint. We do not know what to do with the bills of which Majr. Slaughter speaks, indeed I wish such an enquiry could take place, and that the persons you appoint would give their sanction to every bill.

The suggestions against the Gentlen who went to Kaskaskie under promise of availing you of its resources & strength, are of such a nature as to merit attention & delicate enquiry. I am sure you will keep your attention alive as to everything of this kind, and will use decision where decision is found necessary.

TO MAJOR-GENERAL BARON STEUBEN. V. S. A.

RICHD. Febry. 20th 1781.

SIR,—I enclose you a report from Mr Ross of the cloathing provided and his prospect of further provision. The procuring hats or leathern caps still appears desperate, so that unless some substitute can be thought of, I know not what will be done. There are no hats I am told among the cloathing come from the north. I wrote you that after having called certain numbers from Washington, Montgomery, Botetout, Henry & Pittsylvania, I had called out all the Militia who could be armed of Cumberland, Powhatan, Chesterfd, Dinwiddie, Amelia, Lunenburg & Brunswick to oppose Ld Cornwallis. Prince Edward

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was not called on because we knew them to have actually marched. Mecklenburg, Charlotte& Halifax were so near the Enemy that we knew they must be in the field before any orders could reach them. So far the draught had been no more disturbed than it had been before by Arnold's invasion except as to the five Counties of Washington &c, first named—it is not in our power to anticipate the time of draughting in the other Counties as you propose. The law gives certain times for raising men voluntarily till the expiration of which no draught can take place; for this reason we have wished to avoid as much as possible calling on the Counties North of James River, where the draught is as yet undisturbed, untill we shall hear that Ld Cornwallis has actually crossed the Dan; because that act will decide that he means to penetrate this Country: nevertheless if you think it advisable we will order militia to a certain extent to be embodied on the North side of James River; and I shall be obliged to you for your opinion on this head.

I find by the enclosed papers which have passed between a Lieut Hare calling himself a flag & Capt Turberville that a vessel of the Enemy has come under very suspicious circumstances to Sandy Point. What was her errand, to whom addressed, or whether she had passports from any of the commanding officers at the posts in the neighbourhood of the enemy, are circumstances on which these papers can give me no information; yet they appear material in fixing the character of the vessel. It seems improper that

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under the pretence of being flags their vessels should be allowed to penetrate our rivers to their sources. This matter being within your line, and depending on usages with which you are better acquainted than we are, I wish to remit it altogether to Yourself to have done what is right. A communication of what you determine will oblige me, as I am to write to Genl. Nelson on the subject. I also transmit you an extract of the Genl's on the subject of the French ships here. I should think with him their cruising off the capes attended with safety to them, & great service to the American cause by intercepting the communication between N York and Charles Town. But whether at this crisis till Ld Cornwallis's movements are decided the one way or the other, it be not of very great moment to retain Arnold in his present quarters by the presence of a force sufficient to destroy his navy if he withdraws from it, I would submit to your better judgement.—On this too I will ask your opinion as Genl Nelson expects my answer.

TO BRIGADIER-GENERAL THOMAS NELSON. V. S. A.

RICHD. Febry. 21st, 1781.

DR. GENL.,—I received your letter of the 18th the night before last, and deferred answering it until I could confer with Baron Steuben, which I had the opportunity of doing yesterday evening. He shewed me a letter from Monsr. Tilly from which, and the information of his aid who went down, we suppose the

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French squadron sailed on a cruise yesterday morning. They will however be within our call, & therefore we think it proper to go on with the preparations for enabling us to make an attempt on the enemy, and for affording an asylum to any of the ships of our Ally which may at any time come to us. I put into his hands the papers relative to Mr. Hair & he will give orders on the subject; he seems to consider him as no flag, but a prisoner. As to Mr. Hair's calumnies on individuals of this State among whom I am one; I consider them as honorable testimonials; it is their known practice to bribe whom they can, and whom they cannot to calumniate. They have found scoundrels in America, and either judging from that or their own principles they would pretend to believe all are so. If pride of character be of worth at any time, it is when it disarms the efforts of malice. What a miserable refuge is individual slander to so glorious a nation as Great Britain has been.

I spoke to Baron Steuben some time ago for a return of the numbers of militia from each County which have been on duty & how long. As militia duty becomes heavy, it becomes also our duty to divide it equally. I have waited for this to order out relief, which cannot be done on sure grounds without it. You will oblige me by having such a return made from your quarter as soon as possible. I am sincerely sorry to hear of your indisposition. Wishing it speedily removed. I am. * * *

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TO COLONEL JAMES INNES. V. S. A.

IN COUNCIL. Febry. 22—1781.

SIR,—I had written the enclosed before Capt Richeson arrived. I transmit it open through you for your perusal. I am very sorry that the men first called into the field have not been relieved: but has proceeded from the want of such a return as is mentioned in my letter, and for which I applied some time ago to Baron Steuben, who has had hopes of furnishing it. You will readily be sensible that where any County shall have sent but half the quota called for, they have performed but half their tour, and ought to be called on again: Where any county has furnished their full complement, they have performed their full Tour, & it would be unjust to call on them again till we shall have gone through the Counties. Militia becoming burthensome it is our duty to divide it as equally as we can. Upon the receipt of such a return a relief shall be ordered: and in the mean time the arrival of the militia mentioned in the enclosed may enable you to permit those who have been longer on duty to return home.

On the present invasion the favour was asked of Baron Steuben to arrange the commands on principles laid down by the Executive, being the same determined on Leslie's invasion. We have awaited the receipt of his arrangement to issue Commissions; this alone is the reason why not a single commission has issued during the Invasion. I will take care to remind the Baron of the want of his report & in the mean time should any gentleman have the misfortune

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to be captured not a moment shall be lost in sending him a Commission. The affair of Westover has been communicated to me so imperfectly that I am still ignorant of it. I know that a flag is detained at Sandy Point, and have heard of letters between the conductor and a person in his connection up the river: But their import I have never heard. I understand that I am particularly indebted to Mr. Hair for his eulogiums. Indeed I think them the best certificate of my whiggism did my country want such certificate at this day.

TO MAJOR-GENERAL BARON STEUBEN. V. S. A.

IN COUNCIL. Febry. 24th, 1781.

SIR,—I have received repeated information that the nakedness of the militia on service near Wmsburg and want of shoes is such as to have produced murmurings almost amounting to mutinies and that there is no hope of being able longer to keep them in service. The precedent of an actual mutiny would be so mischievous as to induce us to believe an accommodation to their present temper most prudent and therefore send to Colo Innes a letter of which the enclosed is a copy, in the meantime it is out of my power to order reliefs on any fixed rule without such return as mentioned in the letter. As soon as I shall receive such a return new calls shall be made to replace the numbers you wished to have on the North side of James River independently of those

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from the Northern Counties who were meant to be free for other service. I must therefore trouble you to exercise your authority in such manner as to produce me returns of the desired kind. This is the more necessary to be done speedily lest the same should begin to show itself in Genl Mulenburgs camp. You will judge from the temper of these militia how little prospect there is of your availing yourself of their aid on the South side of the river should you require it. I enclose you a copy of a letter from Colo Bannister, County Lieut of Dinwiddie. I have taken the liberty of referring him to you as to the arms, and the bearer who carries my letter, will also carry any orders you please to give as to them. The size of his detachment it seems will depend on the arms he can procure.

TO BRIGADIER-GENERAL ROBERT LAWSON. V. S. A.

RICHMOND. Febry 25—1781.

SIR,—I yesterday received word from Colo Bannister that there were 400 stand of good Continental arms at Petersburg of which he desired 150. I wrote to Baron Steuben on that, and shall immediately write to him again to let him know your want, & I have no doubt but he will order on the balance for your militia: besides these, 600 stand passed by this place three days ago for Genl Greene's camp. I never heard a tittle of the movements of either army in the South since a letter from Genl Greene of the

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15th. Before that I on the information which your express brought me ordered out all the militia of Cumberland, Powhatan, Chesterfield, Dinwiddie, Amelia, Lunenburg & Mecklenburg who could be armed, and a fourth part of Washington, Montgomery, Botetout, Henry & Pittsylvania. I sent no order to Prince-Edward because I had your information that the business was already done: to Bedford we dispatched Colo Lynch who happened to be here to carry all who could be armed. Halifax & Charlotte were known to be so immediately under the approach of the enemy as that they must be out under the general directions of the invasion Law before orders could get to them. We determined not to embody on the North side of the James River till we should learn that Ld Cornwallis had crossed the Dan, because we still wished to interrupt as little as possible the execution of the Law for raising regulars. That our intelligence might be perfect we got the favor of Majr McGill to go to Greene's camp & apprise us of every interesting movement through the line of stationed expresses. He has been gone a week & we have not yet heard from [him] which makes me apprehend some foul play on the road. I am the more led to this fear by a letter from Genl Greene to Baron Steuben having been opened in the same course of conveyance and the state of Greene's force withdrawn from it.

Genl Mulenburg has drawn close down on the Enemy's lines at Portsmouth—the French 64 gun ship lies in Lynhaven bay & the two frigates are on the cruise. We are strengthening in that quarter.

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TO THE OFFICER COMMANDING THE NAVAL FORCE OF HIS MOST CHRISTIAN MAJESTY ON THE COAST OF VIRGINIA.

(JEAN LE GARDEUR CHEVALIER DE TILLEY.)

Feb. 25, 1781.

SIR,—I have the honor to forward to you the enclosed letter which accompanied others from Genl Washington & the Marques Fayette to the honourable Majr General Baron Steuben & myself. That there may be no disappointment in procuring the pilots required, I got the favor of Capt. Maxwell, naval commander to this State to proceed to Hampton to provide them. His knowledge of the service and of the properest Persons to be employed will I hope ensure our getting them. You will be pleased to advise him as to the number necessary. The communication between yourself and the Commanding Officer on shore I suppose to be at present safe & easy. If you can point out anything which is in my power to have done to render it more so, I shall with great Pleasure have it done. General Washington mentions that you had been so kind as to take on board some arms and cloathing on account of this State. Captain Maxwell is instructed to take measures for receiving them. I shall be happy to have it in my power to contribute by any orders I can give towards supplying your troops with provisions or any other necessaries which may promote their Health or accommodation, and in every instance to testify our gratitude to your nation in general and yourself personally for the aid you have brought us on the present emergency.

TO THE PRESIDENT OF CONGRESS.[1]

J. MSS.

(SAMUEL HUNTINGTON.)

RICHMOND, Febr. 26th, 1781.

Sir,—I gave you information in my last letter that Genl. Green had crossed the Dan at Boyd's ferry and that Ld Cornwallis had arrived at the opposite

[1] A letter to Washington, of the same date and tenor, is in Washington's edition, I, 296.

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Shore: Large reinforcements of militia having embodied both in front & rear of the enemy he is retreating with as much rapidity as he advanced; his route is towards Hillsborough. Genl. Green recrossed the Dan on the 21st in pursuit of him. I have the pleasure to inform you that the spirit of opposition was as universal as could have been wished for. There was no restraint on the numbers that embodied but the want of arms.

The British at Portsmouth lie close in their lines. The French squadron keep them in by water, and since their arrival as they put it out of the power of the Enemy to cut off our retreat by sending up Nansemond river our force has been moved down close to their lines.

TO MRS. WILLIAM BYRD.

(NÉE MARY WILLING.) V. S. A.

IN COUNCIL. March 1st. 1781.

MADAM,—I am sorry it is not in my power to send you the Law you desire having only one copy of it myself and that bound up in the laws of the Session of October 1776. at which it was passed. The description of the offence which is the subject of the Act, is in these words—'if a man do levy war against 'the Commonwealth within the same, or to be ad- 'herent to the enemies of the Commonwealth within 'the same giving to them aid or comfort in the Com- 'monwealth or elsewhere &c. &c. thereof be legally

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'convicted &c &c.' The situation in which you were placed by the landing of the enemy at Westover was undoubtedly difficult. Whether you may have been able to steer with Precision between the will of those in whose Power you were & the Laws of your country is a question on which the laws have not made me the judge. The letter which you mention to have written while the Enemy's fleet lay at Westover, being thought to contain the acknowledgement of an offence against the Commonwealth was put into the hands of the Executive officially and by them remitted to the Attorney General with instructions to proceed as the laws require. I believe it is his idea that these proceedings must be as for a misdemeanor. They will probably take place immediately under the directions of a late act which ordains pleadings in certain cases from Day to Day till final decision and I hope will furnish you with ample occasion of Justification. The flag having come under a permission of Baron Steuben given before the determination to discontinue that kind of intercourse we referred the whole of that matter to him, save only that his promise having been to admit an identical Restitution of Slaves and the flag instead of that bringing a Compensation in Merchandize were of opinion and determined that this could not be admitted to be received, as, allowing the same indulgence equally to all, it would immediately become regular commerce. This was the only order or resolution formed by the Executive on any Thing relative to this Flag or to yourself so far as connected

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with her. Mr. Hare was thought to have conducted himself with great Impropriety, yet a desire to afford no colour of precedent for violating the sacred Rights of a Flag has I believe induced Baron Steuben to remit Mr. Hare & his vessel again to his Commander.

Tho' my office requires that I should be divested of private estimations yet I must be permitted to assure you that it will give me very real pleasure to know that the issue from this troublesome business is perfectly to your satisfaction.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.[1]

(RICHARD HENRY LEE.) V. S. A.

IN COUNCIL March 1. 1781.

SIR,—It is with great reluctance that after so long & laborious a Session as the last I have been again to give you the trouble of convening in general assembly within so short a time and in so inclement a season but such was the situation of public affairs as to render it indespensable.

The six millions of pounds ordered to be emitted at the last session of assembly, the four millions which the Executive were permitted to issue if necessary, and the money for the purchase of 1500 hhds of tobo. estimated to be one million, one hundred & twenty five thousand pounds have been all dispensed in paiment of public debts, in present defence, and preperation for the ensuing campaign, as fast as they could be emitted: and the calls uncomplied with appear to be numerous & distressing.

One army of our enemies lodged within our Country, another pointing towards it, and since in fact entered into it, without a shilling in the public coffers, was a situation in which it was impossible to rest the safety of the state.

[1] No journal of this meeting of the assembly is known to exist.

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The invasion which took place on the close of the last session of assembly having necessarily called for the attendance of a number of Militia in the field, interrupted of course the execution of the act for recruiting our quota of troops for the Continental army. Sensible that this would be the consequence we endeavored to restrain the calls of Militia to as few Counties as possible, that the residue might proceed undisturbed in this important work. But such has been the course of events as to render indispensable subsequent applications to many other Counties. So that while in some counties this law is in a regular train of execution, in others it is begun and proceeding under great obstacles & doubts, and in others it has been wholly suspended. This last measure the Executive themselves were obliged to recommend or approve in some instances from a conviction that they could not otherwise draw forth the force of the Counties in the particular point in which that force was wanting.

Accidents derived from the same movements of the enemy delayed the promulgation of the act for supplying the army with cloths, provisions and waggons until it became evident that the times of execution would be elapsed before the laws could be received in many counties. I undertook notwithstanding to recommend their execution at as early a day as possible, not doubting but that the General assembly, influenced by the necessity which induced them to pass the act, would give their sanction to a literal departure from it, where its substance was complied with. I have reason to believe that the zeal of the several Counties has led them to a compliance with my recommendation, and I am therefore to pray a legal ratification of their proceedings, the want of which might expose the instruments of the law to cavil & vexation from some individuals.

These were the subjects which led immediately to the calling of the General assembly. Others, tho' of less moment, it is my duty also to lay before you, being now convened.

As the establishment of your regular army will of course be under consideration, while amending the late law for raising regulars, I beg leave to lay before you a letter of the Honble Major General Baron Steuben on that subject, and the proceed-

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ings of a convention of Commissioners from the States of New Hampshire, Massachusetts, Rhode island, Connecticut and New York held at Hartford. As likewise a proposition from Colonel Spotswood for raising a legionary Corps for the defence of the State. Whether it be practicable to raise and maintain a sufficient number of regulars to carry on the war is a question. That it would be burthensome is undoubted yet it is perhaps as certain that no possible mode of carrying it on can be so expensive to the public so distressing & disgusting to individuals as the militia.

The approach of the british army under Ld. Cornwallis having rendered supplies of horses for the purpose of mounting our dragoons indispensably necessary for the reasons set forth in the inclosed extract of a Letter from General Greene, and it being apparent that horses, in the route of their march if not used for us, would be taken by them and used in subduing us, I undertook to recommend to General Greene the applying to the use of his dragoons horses so exposed, first ascertaining their value by appraisement, and beg leave to rest the justification of the measure on the appearance of things at that moment, and the sense of the General assembly of its necessity. Could any further means be devised for completing those corps of horse it might have the most important effects on the Southern operations.

I am desired to lay before the General assembly the resolutions of Congress of Feby 5 & 7. 1781. which accompany this, as also the representations of our officers in Captivity in Charles Town in favor of General McIntosh. I likewise beg leave to transmit you the advice of Council for reforming the 1st & 2d State regiments, the State Garrison regt. and regiment of artillery.

Mr Everard having declined resuming the office of Auditor to which the General assembly had elected him, the Executive have appointed Bolling Stark esqr in his room to serve till the meeting of Assembly.

Not doubting but that the General assembly would wish to be informed of the measures taken by the Executive on the invasion which happened at the rising of the last session of assembly, as as well as on the one lately made on our Southern frontier, I shall take the liberty of giving them a succinct State of them.

Having received information on Sunday the last day of

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December of the appearance of 27 sail of Vessels in our bay, which whether friendly or hostile was not then known, we got the favor of General Nelson to repair immediately to the lower country with instructions to call into the field such a force from the adjacent counties as might make present opposition to the enemy, if it proved to be an enemy, according to an arrangement which had been settled in the preceeding summer; waiting for more certain & precise information before we should call on the more distant part of the Country: and in the same instant stationed expresses from hence to Hampton. I took the liberty of communicating this intelligence to the general assembly on their meeting the next morning. No further information arrived till the 2d. of Jan. when we were assured that the fleet announced was hostile. We immediately advised with Major General Baron Steuben, the commanding Officer in the State, on the force he would wish to have collected, and in the course of the day prepared letters calling together one fourth of the Militia from the Counties whose term it was to come into service, or whom vacinity rendered it expedient to call on. viz: Brunswick, Mecklenburg, Lunenburg, Amelia, Powhatan, Cumberland, Pr Edward, Charlotte, Halifax, Bedford, Buckingham, Henrico, Chesterfield, Dinwiddie, Sussex, Southampton, Goochl'd, Fluvanna, Albermarle, Amherst, Rockbridge, Augusta, Rockingham & Shanandoah amounting to 4650 men and directing them not to wait to be embodied in their Counties but to come in detached parties as they could be collected. I at the same time required the Counties of Henrico, Hanover, Goochland, Chesterfield, Powhatan, Cumberland, Dinwiddie & Amelia to send the half of their militia intending to discharge what should be over their equal proportion as soon as those from the more distant counties should arrive, and in the morning of the 4th. finding the enemy were coming up James river I called for every man able to bear arms from the Counties Henrico, Goochland, Powhatan, Chesterfield & Dinwiddie, nevertheless so rapid were the movements of the enemy and so favorable to them the circumstances of wind & tide that they were able to penetrate to this place and Westham on the 5th. to destroy what public stores we had not been able to get away, to burn the public buildings at Westham & some occupied by the public at this place and to retire to their shipping

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before such a force had assembled as was sufficient to approach him. I have the pleasure however to inform you that we were enabled to withdraw almost the whole of the public Stores so as to render our losses in that article far less than might have been expected from the rapidity of the movements of the enemy and the difficulty of procuring suddenly any considerable number of waggons and vessels.

General Nelson having collected and drawn towards the enemy a body of Militia on the North, and Baron Steuben having done the same on the South side of the river, the enemy withdrew making descents & committing depredations at places till they reached Portsmouth, where they have since remained environed by the Militia of this State and of North Carolina.

On receiving intelligence of the advance of the British army under Ld. Cornwallis through N. Carolina, we directed one fourth of the militia of Pittsylvania, Henry, Montgomery, Washington and Botetourt to march immediately to reinforce General Greenes army. But learning very soon after that the enemy were already arrived at or very near the Dan river we ordered out all the Militia who had arms or for whom arms could be procured of the Counties of Lunenburg, Brunswick, Amelia, Dinwiddie, Chesterfield, Powhatan and Cumberland. Colonel Lynch who happened to be here when the intelligence was received, was instructed to carry on immediately the Militia of Bedford : we at the same instant received notice that the Militia of Prince Edward & Mecklenburg were already embodied and we knew that the Counties of Halifax & Charlotte to be so immediately under the approach of the enemy as that they must be embodied under the invasion law before our orders could reach them. The Counties below these on the South side of James river we thought it expedient to leave as a barrier against the enemy within Portsmouth. The very rapid approach of the enemy obliged us in this instance to disregard that regular rotation of duty which we wish to observe in our calls on the several Counties, and to summon those into the field which had Militia on duty at the very time. However the several services of these as well as of the other Counties shall be kept in view and made as equal as possible in the course of general service.

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TO MAJOR-GENERAL MARQUIS DE LAFAYETTE.

V. S. A.

RICHMOND. March 2d 1781.

SIR,—I was two days ago honoured with your letter and that of General Washington on the same subject; I immediately transmitted by Express the one acompanying it to the Commanding officer of the Naval Force of his Christian Majesty in our bay and took measures for providing pilots. Baron Steuben will communicate to you the arrangements he proposes, which I shall have the pleasure of forwarding with every aid in my power. I hope that when you shall arrive at the point of action every Thing will be found in readiness. I think the prospect flattering of lopping off this Branch of the British Force and of relieving the Southern Operations by pointing all their Efforts to one object only. The relief of this State being the most immediate effect of the enterprize it gives me great pleasure that we shall be so far indebted for it to a nobleman who has already so much endeared himself to the citizens of these States by his past Exertions and the very effectual aids he has been the means of procuring them. I have the honor to be with sentiments of the most perfect gratitude and respect, Sir, Your &c.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(RICHARD HENRY LEE.) V. S. A.

IN COUNCIL. March 3d 1781.

SIR,—It is thought that the present situation of the enemy in this state affords an opportunity of undertaking some military operations of Importance. To enable the Commanding officer to

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carry them on an additional force on the water is necessary. There are in James & Appomatox Rivers vessels of private property suited and sufficient for the purpose as is believed. I shall be glad to have the sanction of the General Assembly if they approve of it for impressing such vessels, their tackle &c. Crews for this particular purpose and for short time only, a measure which I hope would not be disagreeable to the owners if their vessels be insured with whatever they may have on Board and a reasonable pay allowed. An immediate determination would be necessary if the measure is approved.

TO COLONEL EDWARD CARRINGTON. V. S. A.

IN COUNCIL March 3d 1781.

SIR,—I have received your letter wherein is this paragraph "the sum indeed mentioned in your Excellency's letter is excessive and I am not surprised it should be so, when I find by a State of your affairs sent to General Greene you have magnifyed the estimate in one article ten fold and perhaps the same circumstance attends the estimation on some of the other articles. I estimated for fifty thousand Bushells of grain; in your Excellency's State to General Greene it is called five hundred thousand. I would be glad the Executive would revise their estimation and perhaps after correcting those errors &c. &c."

I trust you would have been more choice in your terms had you revised the estimate yourself as recommended to us. I send you a copy of it wherein you will find the quantity of corn or oats expressed in these figures and letters '500,000 Bushels' in a former estimate given in some days or perhaps Weeks before this. The quantity required was 'for 2326 draft horses and 779 saddle horses till the 1st of

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August was 282,490 Bushels.' I did not therefore magnify the Article to General Greene and you are now speaking of 50,000 Bushels as the quantity required shows that I had reason to estimate to the General the necessity of a new calculation on the true number of horses connected with the Southern Army and the proportion of this, which on view of actual circumstances we ought to furnish. I believe the estimate of 50,000 bushels to be as far wrong as that of 500,000. We shall be governed by neither but will furnish as much as we shall be able. It will probably be short of the middle quantity. Should you have represented this article to General Greene to have been magnified by us, I shall expect from your Justice that you will be equally ready to correct as to commit an error & that you will take the trouble to inform him that I had not been so deficient in respect either to him or myself as to magnify things of which I undertook to give him representation. Major Claiborne had the half million of Pounds which we promised of the late emission. When the Treasury is replenished he shall again have due Proportion to enable him to procure such Part of the Estimate as he thinks proper.

TO THE SPEAKERS OF THE GENERAL ASSEMBLY OF NORTH CAROLINA. V. S. A.

IN COUNCIL. March 3d 1781

GENTLEMEN,—I had the honor of receiving your joint letter of the 14th ult. I assure you that we have been so very far from entertaining an idea of witholding succours from you on account of the

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invasion of our State that it had been determined that the regular Troops raised & not at that time marched should nevertheless proceed to your assistance & that we would oppose the Army in our own country with militia. For the same reasons we still mean that the new Levies now raising and which will be rendezvoused mostly within the present month, shall be marched on to your assistance, being convinced that that is the only permanent and effective aid we can give you. Militia do well for hasty enterprises, but cannot be relied on for lengthy service and out of their own County.

I am truly sorry that it is out of my power to furnish you with a single stand of arms: those we sent the last year for the use of your State and in the hands of our own militia made a very considerable proportion of our whole stock. Three successive invasions since have obliged us so often to arm large bodies of militia and on every issue of arms to militia the loss is great. We are now unable to do more than to arm the Force lying at Portsmouth. The want of arms was the only circumstance which restrained the numbers lately collected against Ld Cornwallis.

I shall be happy to give you every proof which shall be in our Power of the Cordiality & zeal with which to aid you under every Difficulty. Circumstanced Abilities unhappily render these aids much less than we are disposed to make them to which circumstance I beg you to ascribe whatever we fall short of your actual Wants.

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TO THE GOVERNOR OF MARYLAND. V. S. A.
(THOMAS SIM LEE.)

RICHMOND, March 6th, 1781.

SIR,—I had the honor of receiving your Excellency's Favour of February 27th and had just before received the resolutions of Congress of February 20th which were the subject of the Letter.

I think that we ought not to expect any Co-operation in this business from North Carolina and that we should be disappointed were we to expect it. A State in which are several different Armies of Foes and of friends as destructive from necessity as Foes, which has been consumed by their ravages near a twelvemonth is not in a condition to give but to expect assistance. It must be evident that from the presence of our Armies in that state she must furnish more than her quota for supplies, because she makes up the failures of all other states; for on the Failures of supply the army will not go to take from the State failing, but takes its necessary subsistence from that in which you are. I think then that of the States named in the resolution of Congress the object of the resolution rest truly on Delaware, Maryland, and Virginia and I shall be very happy to concur with them in such equal measures as will effect the intentions of Congress. I do not apprehend it was intended by your Excellency when you proposed to deposit your quota of Specifics at Alexandria that the Burthen of transporting it thence to North Carolina should be left on us solely, because as on the same plan we should be entitled to deliver our quota on

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our Southern boundary which would bring up our share of burthen to an equality of yours: were we moreover to transport your quota and that of Delaware across our Country it would be so much more than equality. I take the liberty of mentioning this because your Excellency's proposition has been I think misunderstood in this particular. The desire of Congress that we should settle an arrangement for procuring supplies for the Southern Army in the states most convenient for replacing those supplies from other States and for transporting the whole. All this supposes a joint concern, I should think therefore it ought to be executed jointly, or if divided that the division of the whole, that is of the procuring supplies in one place replacing them by others and transporting both should be equal, by which I mean proportioned to our abilities as rated in the Continental scale. This may be done in several different ways: 1st, by dividing among us the line of transportation into such parts as when combined with the quantity to be transported along each part will produce a total duly proportioned between us; 2d, by putting into the hands of a Quarter Master due Proportions of money or means of Transportation to be by him employed in carrying on our specifics from their respective States; 3d, For each State to appoint its own Agent & to procure the quota of specifics as near as they can to the Army replacing their money by sale of such specifics as might be raised within the State by Taxation. The first and second modes are liable to this objection

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that the transportation will cost very considerably more than would purchase the articles in the vicinities of the Army. Should these nevertheless or any other mode which can be thought to be more agreeable to your Excellency and the President of Delaware we shall be ready at any time to proceed to settle the arrangement, or as the settlement of it by way of letter might draw it to a great length, I would propose to refer it to be done by ye Delegates from the respective States in Congress. Should the third mode suggested above be preferred as it would be carried into separate Execution no reference would be requisite.

TO MAJOR-GENERAL BARON STEUBEN.[1]

RICHMOND, March 7th, 1781.—8 oclk, P.M.

SIR,—The enclosed came to hand this moment, as I make no doubt it communicates what was mentioned in a letter from the Marquis to me received at the same time, I shall not trouble you with it. Scows which the Marquis desires for the transportation of cannon, cannot venture into the wide waters over which they will have to be transported, as I apprehend. Flats (which abound in York River) are the best vessels for this purpose as I am informed. You may have the best information on this head at York, and I must trouble you to order Flats, or, whatever other vessels will best answer to be procured. The Marquis is very anxious to have the Works at York put

[1] From a copy in the Sparks MSS., Harvard College.

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into proper order. I hope Genl. Nelson's influence may have enabled him to procure hands for this business. The Four Battery Pieces with their Carriages, and one Mortar with its bed are got on board to-day. The other Mortar, without a bed; will be on board this evening, with 6000 lb. of powder, and they will fall down to Hoods, where the armed vessels were directed to, there to await your orders. We found that there were iron beds at Cumberland for the Mortars; these I ordered down with the shells which were to go thence.—1000 lb of powder set out for York this morning: by a letter from Genl. Weedon. I find the numbers he will actually bring will be but about 700. Capt Smith gave me hopes that he could raise 30 horsemen, but did not seem positive; I have not heard from him lately.

TO MAJOR-GENERAL MARQUIS DE LAFAYETTE.

V. S. A.

RICHMOND March 8th 1781.

SIR,—I had the pleasure of receiving last night your letter of the 3d instant and of learning of your arrival at the Head of Elk three days sooner than General Washington had given us reason to expect. In the mean time I hope you will have received my answer to your first letter which I forwarded by Express to the Head of Elk, and which is of greater importance a letter from Baron Steuben who commands in this State, explaining to you what he proposed.

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The number of militia desired by the Baron will be provided, tho not quite so early as had been proposed, so that your delays at the Head of Elk will not produce any inconvenience. Arnold's retreat is at this time cut off by land. Provisions and arms for the Troops are in readiness and the Quartermasters are exerting themselves to get horses. Their exertions are slow and doubtful. Oxen I apprehend must be used in some measure for the artillery. We have no heavy field artillery mounted. Four battering cannon (French 18 lbs) with two 12 Inch Mortars fall down from this place this evening. Scows I am afraid cannot be used for the Transportation of your cannon on the wide waters where your operations will be carried on. We shall endeavour to procure other vessels the best we can. The total destruction of our Trade by the Enemy has put it out of our Power to make any great Collection of Boats. Some armed vessels of public & some of private property are held in readiness to coöperate, but as they are in James River they cannot venture down 'til the command of the Water is taken from the Enemy. Baron Steuben is provided with the most accurate drawings we have of the vicinities of Portsmouth: they are from actual survey of the land, and as to information of the navigation the most authentick will be obtained from the pilots in that neighborhood, ten of the best of which are provided. I shall continue to exert my best endeavours to have in readiness what yet remains to be done, and shall with great pleasure meet your desires on this important business, and see

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that they be complied with as far as our condition will render practicable. On this and every other occasion I will take the liberty of begging the freest Communications with you.

TO THE PRESIDENT OF CONGRESS.[1] C. C.
(SAMUEL HUNTINGTON.)

RICHMOND March 8, 1781.

SIR,—I had the pleasure of receiving a Letter from General Greene dated High Rock ford february 29 (probable March 1) who informs me that on the night of the 24th Colo McCall surprised a subaltern's guard at Hart's Mill, killed 8 and wounded and took 9 prisoners, and that on the 25th Gen. Pickens and Lieutenant Colo Lee routed a body of near 300 tories on the Haw river, who were in arms to join the British army, killed upwards of 100 and wounded most of the rest, which had had a very happy effect on the disaffected in that country.

By a letter from Major Magill an officer of this state whom I had sent to Genl Greene's headquarters for the purpose of giving us regular intelligence dated Guilford county March 2d. I am informed that Ld Cornwallis on his retreat erected the british standard at Hillsborough, that a number of disaffected under the command of Colo Piles were resorting to it when they were intercepted by Genl Pickens and Lt Colo. Lee as mentioned by General Greene and that their commanding officer was among

[1] A letter to Washington of the same date and tenor is in Washington's edition, I, 297.

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the slain, that Lord Cornwallis after destroying everything he could at Hillsborough moved down the Haw river that Genl. Greene was within six miles of him, that our superiority in the goodness tho not in the number of our cavalry prevented the enemy from moving with rapidity or foraging. Having desired Major Magill to be particular in informing me what corps of militia from this state joined General Greene he accordingly mentions that 700 under General Stevens and 400 from Botetourt had actually joined General Greene, that Colo Campbell was to join him that day with 600 and that Colo Lynch with 300 from Bedford were shortly expected; the last three numbers being riflemen. Besides these mentioned by Major Magill, Genl Lawson must before that time have crossed Roanoke with a body of Militia the number of which has not been stated to me. Report makes them 1000 but I suppose the number to be exaggerated. 400 of our new levies left Chesterfield court house on the 25th february and probably would cross the Roanoke about the first or second of March.

I was honoured with your Excellency's letter of Feb. 21 within seven days after its date. We have accordingly been making every preparation on our part which we were able to make. The militia proposed to operate will be upwards of 4000 from this state and 1000 or 1200 from Carolina, said to be under Genl Gregory. The enemy are at this time in a great measure blockaded by land, there being a force on the east side of Elizabeth river. Tho they

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have a free exit from the Elizabeth river, they suffer for provisions, as they are afraid to venture far lest the french Squadron should be in the neighbourhood and come on them. Were it possible to block up the river, a little time woud suffice to reduce them, by want & desertions would be more sure in its event than an attempt by storm. I shall be very happy to have it in my power to hand you a favorable account of these two armies in the South.

TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(RICHARD HENRY LEE.) V. S. A.

IN COUNCIL. March 9th, 1781.

SIR,—I think it my duty to communicate to the General Assembly the enclosed papers giving information of the refusal of considerable numbers of militia within certain Counties to come into the Field and the departure of some others in Defiance with their arms. The crisis at which these instances of Disobedience to the laws have appeared may bring on peculiar consequences. I have taken the liberty of mentioning it to the General Assembly as it may perhaps suggest to them some amendments of the Invasion Law, or as they might wish to advise the proper measures to be taken on the present occasion.

TO MAJOR-GENERAL BARON STEUBEN.

IN COUNCIL. March 10th, 1781.

SIR,—I received your favour of the 8th instant and am sorry to find that this distressing flag is not yet off our hands. I sincerely wish that the perplexities she has introduced, she may not be more effectually working for our enemies than if she had pursued their

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original purpose. This can only be avoided by candid explanation & dispassionate Judgment. The line of conduct which the Executive meant to pursue as to this Flag cannot be more pointedly declared than in the letter of the February which I had the honour of writing to you, a copy of which I take the liberty of enclosing. They considered her from the beginning within the military line: they never proposed to make, or ever did make a single order on the subject or come to a resolution except that which is declared in my letter of February a copy of which is also enclosed, whereby they laid down a general rule that compensations for plunder shall not be received from the enemy.

In the conversation which I had with Capt Walker wherein he mentioned your sentiments & purposes as to the person of Mr. Hare and his vessel, I declared to him my sense of the extreme impropriety of Mr. Hare's Conduct: that had I been the Officer to whom he had come, I would have refused to do business with him and have sent him back his Purpose uneffected, but that I would not for such a cause have brought the sacred rights of the flag into question, & that I concurred with you in opinion that they should be dismissed.

The officers immediately connected with her did make some reports to the Executive, but they were in every instance and immediately transmitted and transferred to you for orders, one instance only excepted, which was the following. Some few days ago, I received a letter from Colo. Innes desiring my opinion as to what should be done with Mr Hare &

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the vessel. This conveyed to me the first notice that your order had not been obeyed and that the vessel was drawn into a Court of Justice. I wrote in answer to Colo Innes, as well as I can recollect for I write this from memory that whatever powers the Executive might have possessed over these subjects, they had delegated them to you, that I doubted whether the Delegation had added anything to your powers as I conceived them before competent to the subject, that as to Mr. Hare particularly whether considered as a Conductor of a Flag a Prisoner of war or a Spy he was subject to your order. That indeed as to the vessel since she was drawn into the posession of a court being much unacquainted with the subject I would take the Attory General's opinion on it & transmit it to him. I did so. I did not send the papers to you because I knew or believed you to be on the road to Williamsburg, where I took for granted the whole matter would be laid before you.

As to Mr. Hare's person the Executive can with Truth disclaim having ever given an order on that subject, and if you had supposed, as we are afraid from your letter you do that any Thing has been done in consequence of an order, advice or Recommendation from us, we affirm that it was not: As little as the Detention of the vessel proceeded from the Executive. She is indeed in the hands of the State, but it is of the Judiciary part of Government, which is as independent of them as is the Supreme Court of any other Country.

We are sorry the officers who transacted business with Mr. Hare should have failed in obedience to

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your orders, and would do any Thing in our power to support and manifest your authority were any Thing wanting but nothing can be added to the provision which the Military Institutions have made to enforce obedience, and it would be presumption in us to say what is that Provision to you. These put into your own hands the satisfaction which you desire Government to procure you. Even your letter to Mr. Hare, which we must suppose Major Turberville to have so improperly to have retained, it is most in our power to require authoritively: to such an order no obedience would be exacted by the Laws, nevertheless he shall be written to on the subject as we cannot conceive but that, sensible of the Impropriety of such a detention, he will not need compulsion to return it: I must again express my uneasiness at the unfortunate consequences which may flow from the conduct of the Gentlemen who have managed this business; however zealous may have been their Intention, I fear I foresee evils more lasting & weighty than the good which may result from them.

I trust I shall not fail of having your concurrence in endeavouring to avoid them as far as shall depend on us.

TO MAJOR-GENERAL BARON STUEBEN. V. S. A.

IN COUNCIL. March 10th, 1781.

SIR,—Since writing my letter of this Day's Date, yours of yesterday has come to hand. The orders to the Counties which were to reinforce General Muhlenburg, were that their Detachments should be with

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him on the fifth or at furthest the 6th. On receipt of the letter of the 8th informing us of the almost total deficiency of New Kent. we ordered 164 men from Chesterfield and 187 from Dinwiddie to be immediately assembled and marched to General Muhlenburg's Head quarters. We can only be answerable for the orders we give and not for the execution. If they are disobeyed from obstinacy of spirit or want of coertion in the Laws it is not our fault; we have done what alone remained for us to do in such case, we have ordered other militia from other Counties.

The Quarter Master applied to us on the subject of the Horses required. He was furnished with impressing powers. He again applied for militia to aid him in the execution of the Powers. We did not think proper to resign ourselves and our Country implicitly to the demands of a Quartermaster, but thought we had some right of judgment left to us. We knew that an armed force to impress horses was as unneccessary as it was new. The fact has been that our citizens have been so far from requiring an armed Force for this purpose that they have parted with their horses too easily delivering them to every man who said he was riding on public business and assumed a right of impressing. When therefore the militia have on their hands a sufficiency of real calls to duty, we did not think it proper to harrass them in cases where we had reason to suspect they were not wished by the Quartermaster as militia, but as servants. It was mentioned to the Quartermaster that in our opinion he could and should do but little

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in this neighbourhood & that of Petersburg which had been drained by constant impresses: Nevertheless we furnished him with the blank Powers to be exercised where he pleased. I have laid your letter before the Assembly according to your desire.

TO MAJOR-GENERAL MARQUIS DE LA FAYETTE. V. S. A.

RICHMOND. March 10th, 1781.

SIR,—Intending that this shall await your arrival in this State I with great joy welcome you on that event. I am induced to from the very great esteem your personal character and the Hopes I entertain of your relieving us from our enemy within this State. Could any circumstances have rendered your presence more desirable or more necessary it is the unfortunate one which obliges me to enclose you the enclosed papers.

I trust that your future Acquaintance with the Executive of the State will evince to you that among their faults is not to be counted a want of disposition to second the views of the Commander against our common Enemy. We are too much interested in the present scene & have too much at stake to leave a doubt on that Head. Mild Laws, a People not used to prompt obedience, a want of provisions of War & means of procuring them render our orders often ineffectual, oblige us to temporise & when we cannot accomplish an object in one way to attempt it in another. Your knowledge of these circumstances with a temper to accommodate them ensure me your

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coöperation in the best way we can, when we shall be able to pursue the way we would wish.

I still hope you will find our preparations not far short of the Information I took the Liberty of giving you in my letter of the 8th instant. I shall be very happy to receive your first Applications for whatever may be necessary for the public service and to convince you of our disposition to promote it as far as the Abilities of the State and Powers of the Executive will enable us.

TO THE SPEAKER OF THE GENERAL ASSEMBLY.[1]

(RICHARD HENRY LEE.)

IN COUNCIL, March 10, 1781.

SIR,—At the request of Major General Baron Steuben, expressed in the enclosed letter, I take the liberty of laying it before you. The number of militia necessary to be called into the field, and time of their being there, we begged the baron to advise. He did so. Apprehending the deficiencies, we ordered a considerably larger number. As soon as we received the letters informing us of the deficiencies from New Kent, and desertions from Cabin Point, finding that, with those of Loudoun, the number would be reduced below what he desired, we ordered three hundred and fifty one from the counties of Chesterfield and Dinwiddie. The time fixed by the baron, for the first reinforcement, was the sixth instant; our orders were that they should be there on the 5th or 6th, at farthest; they were not there, it seems on the 7th. A number of horses were required for special purposes; we furnished the quartermaster with impressing powers. He applied for militia to aid him in the execution of the powers. We knew that an armed force to impress horses was unnecessary as it was new. The fact has been, that our citizens, so far from requiring an armed force for this purpose, have parted from their horses too easily, by

[1] From Lee's *Life of R. H. Lee*, II, 191.

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delivering them to every man who said he was riding on public business, and assumed a right of impressing. When, therefore, the militia have on their hands a sufficiency of real calls to duty, we did not think proper to harass them in cases where, we had reason to believe, they were not wished by the quartermaster as militia, but as servants. It was mentioned to the quarter-master, that, in our opinion, he could and should do but little in this neighborhood, and that of Petersburg, which had been drained by constant impresses; nevertheless, we furnished him with blank powers, to be exercised where he pleased.

TO MAJOR-GENERAL MARQUIS DE LAFAYETTE. V. S. A.

RICHMOND. March 12th, 1781.

SIR,—The enclosed is the Copy of a Letter which was intended to have awaited you in Virginia. But as there seems to be a probability that you will be detained at the Head of Elk longer than could have expected I have thought it best to send a Copy there also.

An idea having unfortunately got abroad that the militia now called on are intended to storm the Enemy's works at Portsmouth the numbers which actually march from the several Counties are so far short of what we ordered as never happened before & as to have baffled our calculations on probable Deficiencies. As these have become further known & expected we have ordered in additional numbers. From this cause I am informed the Blockade of Arnold on the Norfolk side has not taken place as I had reason to believe when I wrote to you on another occasion.

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By the last accounts I can get the Enemy have three vessels of Force in the Bay in addition to those Arnold had before. What few armed vessels we could get are in James River & cannot be got out nor, could we get them out, are they of Force sufficient to venture up the Bay. Should a French naval Force superior to that of the Enemy arrive in the Bay, I make no doubt you will still think it necessary to be assured that there are not in the upper part of the Bay vessels of the Enemy sufficient to do you Injury. I fear the number of boats requisite for landing your men and cannon will be very defective. Baron Steuben thinks 20 necessary but there cannot be half that number procured. The boats built for use in the upper part of James river cannot navigate the lower parts nor can any be brought round from the other rivers, perhaps it will be in your power to bring a number of boats with you. We have every instrument in motion which can avail us on this most interesting Occasion, but the want of means circumscribes our exertions. I think it proper therefore to reduce your expectations from what should be ready to what probably will be ready, and even calculating on probabilities I find it necessary to reduce my own expectations at Times. I know that you will be satisfied to make the most of an unprepared people, who have the war now for the first Time seriously fixed in their Country and have therefore all those habits to acquire which their Northern Brethren had in the year 1776. and which they have purchased at so great an expense.

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TO MAJOR-GENERAL MARQUIS DE LAFAYETTE. V. S. A.

March 12

SIR,—Since writing the preceeding I have been honoured with your letter of the 6th. The first notification of this Enterprise came to me in the night of the last day of February. We were informed there were few or no armed vessels in the three northern Rivers and supposed if there were any they could not be impressed manned & brought into place by the time at which it was then thought they would be wanting. We confined ourselves therefore to James river. It is certainly too late to attempt the other rivers. We had but one Galley in order. She went down the river some time ago and having never been heard of since we fear some accident has happened to her. We had before sent down 6000 lbs of cannon powder and now order 4000 lbs more which goes very deep into our present stock. Ten Pilots are provided. I will lodge some maps for you so as that they shall be delivered to you on your arrival. I now give orders for look-out boats to be ready in Rappahannock, Piankatank & York rivers. I cannot say what may be expected from them. The articles wanted in the Quartermasters & Engineers departments as stated in their Invoice, will most of them be got, as the orders for them go out to Day, only they will of course be rather late. I send off to the neighbourhood of the intended operations to procure the plank. I expect it will not be very easily or speedily provided. As to the artificers required I can give you but little Hope. They are exceedingly scarce in this Country.

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Endeavours shall not be wanting, but still they must not be counted on. Provisions will be in readiness. This is a summary of what is done, may be done, is doubtful or desperate on the several articles enumerated in your Letter. I pray you to make no difficulties in communicating freely what may be wanted for the service being desirous of contributing every Thing which our State can do or produce for the successful prosecution of the Enterprise and confiding that you will put the most candid Constructions when we fail as you will too soon find a full Compliance beyond the reach of our abilities.

TO MAJOR-GENERAL MARQUIS DE LAFAYETTE. V. S. A.

IN COUNCIL March 14th 1781.

SIR,—We just received the pleasing information of your safe arrival at York yesterday. My letters of the 12th which were sent to the Head of Elk (Duplicates of which accompany this) will inform you that we were endeavouring to accomplish your several Requisitions. I now enclose you a list of articles actually procured which will go from this place this evening, most of them in waggons to General Muhlenburg's Head Quarters. Some heavy Articles particularly about 1500 Gallons of rum, some flour and 20 seasoned oak planks go in a vessel down the river. Four smiths go with the waggons. The articles not stated in the enclosed paper will I am in Hopes be procured by an Agent I have sent to the neighbourhood of Suffolk who will engage what Artificers can be found

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I am informed that there will be ready at the public Ship yard on Chickahominy on Friday next 4 Boats well fitted for your purpose. Others are collecting in the rivers to rendezvous at Hoods. The Galley I Mentioned in my letter of the 12th is at the same ship yard and another is got ready. They are very light and want men as do two armed vessels belonging to the State at the same place. I have desired Capt Maxwell (at present I believe at York) who in consequence of former orders has I expect provided men to come to the ship yard and see these vessels put into motion. I have the pleasure to inclose you herewith a small map of the vicinities of Williamsburg York Hampton & Portsmouth done on a scale of 5 miles to the inch which may serve for pocket purposes & a larger one of the vicinities of Portsmouth on a scale of a mile to the inch which may be resorted to where greater accuracy is requisite. They are both from actual surveys and are the best in our power to provide for you. The larger one is a copy of original draughts, the smaller is very carefully reduced from them. Provisions cannot fail if the Commissaries look forward. I must beg the favour of you to give strict orders to the issuing Commissary to give me very timely notice when any thing like want shall be approaching, because Time is requisite in this State to comply with any call. The State purchasing Commissary was ordered by me besides the bread and animal Food to lay in at General Muhlenburg's camp or at a proper place in its neighbourhood a hundred thousand rations.

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TO THE VIRGINIA DELEGATES IN CONGRESS. V. S. A

IN COUNCIL. March 15th, 1781.

GENTLEMEN,—A Difference of opinion having taken place between the Executive of this State & Mr. Simon Nathan at the rate at which certain Bills of Exchange should be discharged in paper money we have agreed with him to refer it to such Gentlemen of knowledge in the Laws of established character & of any other State as yourselves shall mutually agree on with him. Their award shall be performed by the State which means to stand in the place as well of the Drawer as Drawee. Mr. Wilson & Mr. Sergeant had been consulted by Mr. Nathan. I enclose to you Mr. Pendleton and Wythe's opinion. You will be pleased to observe that the state of the case requires from Mr. Nathan actual proof that he took up the bills at par. Mr. Nathan having agreed with us to all the facts as stated I am to suppose nothing contrary to them will be received, as his signature here was omitted perhaps it would be best for you to require it before submission. It is not our Desire to pay of those bills according to the present Depreciation but according to their actual value in hard money at the time they were drawn with Interest. The State having received value so far as it is just it should be substantially paid. All beyond this would be plunder made by some person or other. The Executive in the most candid manner departed from the advantage which their Tender law gave them in the beginning. It seems very hard to make this means of obtaining an unjust Gain from the State.

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TO THE SPEAKER OF THE HOUSE OF DELEGATES.
(RICHARD HENRY LEE.) V. S. A.

IN COUNCIL. March 16th, 1781.

SIR,—The Marquis Fayette desired me among the articles most essential for an Enterprise at the head of which he is, to procure 150 Draught Horses for Artillery & 50 saddles Horses for Officers to act on. I gave power and instruction to have them procured by Purchase if possible & if not by Impress.—One of the Quarter masters employed in this Business informs me that he has purchased some and impressed others on valuations by men on oath and deemed honest which are rated as high as £30,000 and most of them very much above what is reasonable. These circumstances are very embarrassing. To retain the Horses at such enormous prices threatens ruin on one Hand, the other to discharge them endangers an Enterprise which if successful would relieve us from an Enemy whose residence is attended with continued Expence, Fatigue and Danger. Under this perplexity I am happy to have it in my power to ask the advice of General Assembly. The Quarter master was under orders from his Commanding Officer to set out this morning with what Horses he had but I have detained him until the sense of the General Assembly may be had on the subject.

TO MAYOR-GENERAL MARQUIS DE LAFAYETTE. V. S. A.

RICHMOND March 19th, 1781.

SIR,—Your letters of the 16th & 17th inst. came to hand at Noon of this day. I beg leave to inform you that for the purpose of speedy Communications between the Executive & the Commanding Officers Expresses are established from this place through Williamsburg to Hampton every fifteen miles distance and that a Quarter master is employed in establishing a similar line from hence to the Army before Ports-

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mouth crossing James River at Hoods. These Expresses are ordered to ride day and night. You will be pleased to set the line in motion whenever you think proper. Besides the Exertions of the Continental Quarter master to procure Horses we instructed the State Quarter Master to send out Agents on the same business in order to insure the number required by Colo Pickering which was 50 saddle Horses & 150 Draught Horses. What his agents could procure we ordered to be at General Muhlenburg's Head Quarters by the 20th. I shall order him to continue his efforts in aid of the Continental Quarter Master ten days longer.—In a Country whose means of paiment are neither prompt nor of the most desirable kind, impressing property for the public use has been found indispensible. We have no fears of complaint under your exercise of those powers & have only to ask the favor of you to instruct those employed in impressing to furnish the party whose property is taken with a proper certificate of the Article & value and that they make regular returns to Government of the Certificates they have given stating in such return the Date of the Certificate, owners name, article taken, & price. This has been required of course from all impressing Officers as a Check on Counterfeited certificates.

The conduct of Capt. Turberville has come to the knowledge of the Executive in detached Parts only. His permitting Lt Hare to pass his post to Westover was deemed by us improper. We understood also he did not obey a positive order from Major General Baron Steuben for discharging Mr Hare & the flag;

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and the Baron complains to us that an open letter of his to Mr Hare was detained by Capt Turberville. We could do no less than observe to the Baron that the military institutions had put in his hands the Powers of vindicating the military authority. An enquiry or Trial before a military court is certainly proper: but Capt Turberville cannot & I dare say will not expect or desire it but when full evidence can be obtained. If it be necessary that it should await the papers which were transmitted me, they are now in the hands of the Attorney General to support a civil prosecution, and cannot probably be for many Days withdrawn. Capt Turberville is an essential witness in the prosecution which is to be heard on the 23d inst and will then have the means of knowing when the papers can be spared.

As a complete collection of our military & other Laws is very difficult to be procured and would be troublesome for you to consult, I have ordered the militia Laws to be copied together & will transmit them to you in a few Days.

Capt Turberville's connection with Mr Hare's flag gives me occasion to mention that matter to you. On my hearing (several days after it happened) that such an Officer and vessel had come up James River, I took the Liberty of mentioning it in a letter to Major General Baron Steuben, of asking the favor of his attention to it, & informing that it was more immediately within the military line, was under rules and usages with which he was much better acquainted than we were, we wished to leave it to him altogether to have done whatever was right. It was his opinion

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& it was & is ours that notwithstanding the Indecencies & Irregularities of Mr Hare's conduct he & his vessel should have been discharged. He accordingly ordered it, but his order was not obeyed as to Mr. Hare's person till so much time had elapsed as to render the discharge dangerous, it was therefore countermanded. As to the vessel, an Idea arose I know not on what grounds that she was drawn into litigation before a Court of Justice. This I am now informed is not the case. As we have never meddled with her we wish not to do it; but to leave with yourself to discharge both officer & flag whenever you shall think it proper to do so. In the meantime I doubt not you will think proper attention should be paid to the safe Custody of the vessel the persons & property belonging to her, & that she be kept under the military Power & clear of the civil.

I send you subjoined a State of the militia called to the South Side of James River.[1] If I understood Baron Steuben's plan he wished to have 800 Vir-

[1] The following summary is attached:

Loudoun.....436	Southampton.....219			
Fauquieur.....269	Isle of Wight.....150			
Prince William....185	Nansemond 161	2190		Originally called for
Fairfax.....200	Chesterfield.....164			
New Kent.....104	Dinwiddie..... 187			
Charles City..... 71	Hanover.....245			
Prince George.....125	Caroline.....260			
Surry..... 95	Spotsylvania.....120			
Sussex.....175	King William..... 55	1031		Supplementary
		3221.		

Ship Renown.....16...4 & 6 lbs		Ship Tempest—16 Guns	Chickahominy
Brigg Wilkes.....12...4....lbs	Hoods	Brigg Jefferson 14.4 lbs	
Brigg Mars..... 8..4....lbs		Lewis	Small gallies
Brigg Willing lass, 10..4....lbs		Safeguard	

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ginia militia to operate on the Norfolk side with the Carolinians and 2260 on the Portsmouth side to operate with the Regulars making in the whole 3060 militia. In our first call expecting deficiencies we much exceeded these numbers taking into account the militia then in the field under General Muhlenburg, but finding these deficiencies greater than could have been expected we afterwards considerably augmented our calls. I also state the armed vessels now at Hoods under the direction of Capts Mitchell & Lewis, subject to your order. They are private property. Those of the Public in Chickahominy want men to supply which Orders have been sent to Captain Maxwell.

TO HIS EXCELLENCY THE PRESIDENT OF CONGRESS.

J. MSS.

RICHMOND March 21st, 1781.

SIR,—The inclosed letter will inform you of the arrival of a British fleet in the Chesapeake Bay.

The extreme negligence of our Stationed Expresses is no doubt the cause why as yet no authentic account has reached us of a General Action which happened on the 15th instant, about a mile and a half from Guilford Court House between Genl. Greene & Ld Cornwallis. Capt. Singleton an intelligent Officer of Harrison's Artillery who was in the action, is this moment arrived here and gives the general information that both parties were prepared and desirous for action. The Enemy were supposed about 2500 strong, our army about 4000. That after a warm and general engagement of about an hour and a half,

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we retreated about a mile and a half from the field in good order, having as he supposed between two and three hundred killed and wounded: The enemy between five and seven hundred killed and wounded; That we lost four pieces of Artillery: That the Militia as well as regulars behaved exceedingly well: That Genl. Greene, he believes, would have renewed the action the next day had it not proved rainy, & would renew it as soon as possible, as he supposes. That the whole of his Troops, both regulars and Militia were in high spirits and wishing a second engagement: That the loss has fallen pretty equally on the Militia and Regulars: That Genl. Stevens received a ball through the thigh: Major Anderson of Maryland was killed & captain Barrett of Washington's Cavalry. Capt. Fauntleroy of the same Cavalry shot through the thigh & left on the field. Capt Singleton having left Camp the day after the Battle does not speak from particular returns, none such having been then made. I must inform your Excellency from him, till more regular applications can reach you, that they are in *extreme want* of lead, cartridge paper & bread. I think it improper, however it might urge an instantaneous supply, to repeat to you his state of the extent of their Stock of these articles. In a former letter I mentioned to you the failure of the vein of our Lead Mines which has left the Army here in a state of equal distress & danger.

Look out Boats have been ordered from the Sea board of the E shore to apprise the Commander of the French fleet on its approach of the British being in the Chesapeake

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TO BRIGADIER-GENERAL GEORGE WEEDON. V. S. A.

RICHMOND March 21st, 1781.

SIR,—As I am certainly informed by Commodore Baron that the Fleet arrived is British, I become anxious lest the expected French fleet not knowing of this Incident may come into the Bay. Should ye Marquis Fayette be returned to the North side of the river, I make no doubt that he will have taken what cautionary measures are in his power and necessary. Should he not be returned I must beg the favor of you immediately to send off a vessel from York to the Eastern shore (which is supposed to be practicable) with the enclosed letter to Colo. Avery the purport of which is to send out two good lookout boats from the sea side of that shore to apprize the French Commander should he be approaching of the situation of Things here. You will of course caution the master of the vessel to destroy the Letters confided to him in case of inevitable capture.

TO MAJOR-GENERAL MARQUIS DE LAFAYETTE. V. S. A.

IN COUNCIL. March 24th, 1781.

SIR,—I am honored by your letter of the 20th inst. and am sorry that a want of ammunition should have abridged your intentions at Portsmouth. I have made enquiry what have been the issues of ammunition from the State Stores and am informed by returns that there has issued (naming principal articles only)

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To Thomas Smith acting for Major Prior 1000 lbs Cannon powder for York.
To Captn Bohannon 6000 lbs Cannon powder
To Major Pryor for Genl Muhlenburg's camp 400 lbs musket powder 2100 lbs lead.
To Capt Irish for the Continental Laboratory 3500 lbs musket powder and 3900 lbs lead.—
Amounting to 10,900 lbs powder & 600 lbs lead.

These things being put into the hands of continental officers, whether made up, forwarded, or not are circumstances not afterwards coming to my knowledge. I asked the favor of Captn. Irish to inform me of his issues from the Continental Laboratory to which we sent 19 hands to aid him in preparing the ammunition. He made the enclosed return. I apprehend a considerable part of what he has issued is still on the road. He has 18,000 cartridges on hand and makes 3000 a Day. I am very sorry to inform you our stock of lead will not employ him much longer even at this slow rate.

The vein of the mine on which we have hitherto depended failed some weeks ago, of this I immediately apprized Congress. Unless some speedy supplies are sent on, the Southern army as well as ours will immediately fail. I have lately again written to Congress on this subject and by Captain Rutlege ventured to send a particular state of the Southern Army in this point as reported to me by Captn. Singleton, the addition of your application would doubtless have great weight. It has not been gen-

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erally expected that individual States should provide more ammunition on their own accounts than to repel occasional Attacks or to oppose a permanent enemy until supplies & support could be forwarded from the Continental stock. Our State stores however have been constantly applying to the use of the Southern Army from the taking of Charleston to this time and our own Army from the first of October last. I mention these Things not with an Idea of withholding as long as we have a grain, but to enable to shew that aids of military stores from the Continental stock are as reasonable as they are necessary. As to provisions I have been incessant with the Commissary to see that the quantity before ordered be in readiness. He has constantly assured me that he has much more than has been required. Were the articles such as are lodged in Store-houses I would send an Officer to examine his stores actually, but they consist mostly of stalled beeves divided among the counties which it would be improper to bring together till wanted. He has a vessel under the care of the armed vessels in this river loaded with Flour, which he says contains half the quantity required and the whole may be water borne the moment it is wanted. He has no hard bread, but he is instructed to provide it. I shall not cease to recall his attention to it.

I am anxious to hear from you since the appearance of this British fleet. It is said by a Captn. Reeves who came out of Portsmouth since their arrival that there was a partial engagement between

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that & the French Fleet off our Capes in which neither party sustained the loss of any vessel or other considerable damage. Immediately on learning their arrival I communicated by the stationed Expresses to Governor Lee, the President of Congress & General Washington. I suppose this will put an end to the design of Portsmouth, or place it at a distance; in either case the militia who have had a tour of Duty so unusually long are entitled to be discharged by a special promise so soon as those newly called on shall rendezvous in sufficient numbers to replace them. Great cautions are requisite on the discharge of militia to prevent their carrying away their arms and ammunition. Another reason induces me to wish an information of your present views, which is that if there be a probability that the private armed vessels we have impressed may not be wanting. I should be glad to discharge them as they are heavy daily Expence and risk.

I do myself the pleasure of transmitting to you the Militia Laws according to Your desire.

I will beg the favor to send the enclosed letter to the Britsh Commanding Officer at Portsmouth by Flag whenever you shall think proper. Indeed I wish it might suffice to deliver it to the naval Commander as nothing can be so disagreeable to me as to be compelled to a correspondence with the other.[1]

On the resignation of Colo. Muter as Commissioner of the war office we have appointed Colo. Davies to succeed him. The due execution of the

[1] Benedict Arnold.

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duties of this office are of extreme importance to the State and indeed to the Continent, while an army continues either here or in the South. Some difficulties on the subject of rank and other emoluments prevent his absolute acceptance. He has however accepted conditionally and we are applying to Congress to settle the points on which he hesitates. In the meantime as the duties of the office do not admit a Days intermission in the present Situation of Things, give me leave to solicit his excuse for quitting the charge at Chesterfield Courthouse without awaiting a regular Licence & your permission to him to continue here till we receive the Determination of Congress.

TO THE COMMANDING OFFICER OF THE BRITISH FORCE AT PORTSMOUTH. V. S. A.

(MAJOR-GENERAL BENEDICT ARNOLD.)

IN COUNCIL, March 24th, 1781.

SIR,—Some of the citizens of this State taken prisoners when not in arms and enlarged on parole have reported the Commanding Officer as affirming to them that they should be punished with Death if found in Arms. This has given occasion to the enclosed Resolution of the General Assembly of this State. It suffices to observe at present that by the Law of nations, a breach of parole (even where the validity of parole is not questioned) can only be punished by strict confinement.

No usage has permitted the putting to Death a prisoner for this cause. I would willingly suppose

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that no British Officer had ever expressed a contrary purpose. It has however become my duty to declare that should such a Threat be carried into Execution, it will be deemed as putting prisoners to death in cold blood, and shall be followed by the Execution of so many British prisoners in our possession. I trust however that this horrid necessity will not be introduced by you and that you will on the contrary concur with us in indeavouring as far as possible to alleviate the inevitable miseries of war by treating captives as Humanity and natural honour requires. The event of this contest will hardly be affected by the fate of a few miserable captives in war.

CIRCULAR-LETTER TO THE COUNTY LIEUTENANTS.

V. S. A.

IN COUNCIL. March 26th, 1781.

SIR,—I enclose you by express three Acts of the last session of Assembly for ascertaining the number of militia in the State exempting Artificers employed at Iron works from militia duty and remedying the inconveniences arising from the Interruption of the Draught and the procuring Clothes Provisions & waggons for the Army. On the approach of Lord Cornwallis to this State & a representation of the want of Horses to mount our Dragoons two warrants were enclosed to General Greene for impressing Dragoon horses. The persons to whom these warrants have been entrusted having taken as was said Horses of much greater value than have been allowed for that service, the General-Assembly directed that no further Impresses under them should be made of horses of more than the value of £50 Specie and that those of a higher price already Impressed shld be returned to their owners. We have taken such measures as were in our

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power to carry the Resolution into effect, but as the Impresses pasing continually from Place to Place may not be notified of the Resolutions of Government, I must beg the favor of you to take measures for making them known to any such who may be in your County and for effecting their execution. It is probable that most of the valuations have been made in paper money. From another Resolution from Assembly we are led to fix on £5000 paper, as the value above which no such Horse shall be impressed or retained. We expect to send a vessel shortly with a flag from this Place to Charles Town with tobacco to be disposed of for our Captive Officers and soldiers there. Be so good as to give notice to the friends of any of them within your County that any articles that they may think proper to send for their Relief by that conveyance shall have a free passage if ready to be delivered here by the last of April, & not too much for the share room of the vessel.

The number of deserters from the British army who have taken refuge in this State is now considerably & daily augmenting. These people notwithstanding their coming over to us, being deemed in Law alien Enemies and as such not admissible to be citizens are not within the scope of the Militia and Invasion Laws, under which citizens alone can be embodied. I thought it necessary to observe this to you lest any Error in this point should creep into practice by incorporating those persons in the Militia of the State.

TO THE REV. JAMES MADISON AND ROBERT ANDREWS.

V. S. A.

RICHMOND. March 31st, 1781.

SIR,—The principle on which the Boundary between Pensylvania and this State is to be run having been fixed it is now proposed by President Reid that Commissioners proceed to execute the work from the termination of Mason and Dixons Line to the com-

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pletion of five Degrees of Longitude and thence on a meridian to the Ohio. We propose that the extent of the five Degrees of longitude shall be determined by celestial observation. Of course it will require one set of Astronomers to be at Philadelphia and another at Port Pitt. We ask the favor of yourselves to undertake this business the one to go to the one place, the other to the other, meaning to add a coadjutor to each of you. Good instruments can be furnished no doubt at Philadelphia; but for the Pittsburg observations we must sollicit the proper instruments from your corporations which we will undertake to return in good order; or if injured to replace them. I therefore beg the favor of you to sollicit the Loan of those Instruments. With respect to yourselves we shall furnish money for your necessary & comfortable Expenses, the covered waggon which conveys the Instruments will take any luggage necessary for your accommodation. And we will give you moreover 150 lbs of Tobacco a Day each dischargeable in current money at the rate affixed by the grand Jury at the General Court next preceding paiment. It will be necessary to proceed in this business as soon as the General mode shall have been agreed between the two States. Perhaps a meeting of the Commissioners at Baltimore will be previously requisite to settle particulars. I am to request an immediate answer to this as I delay proposing to President Reid this mode of locating the boundary until I know whether we can get the Execution of it undertaken by Gentlemen who will do us credit and justice.

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TO THE PRESIDENT OF CONGRESS. J. MSS.
(SAMUEL HUNTINGTON.)

RICHMOND March 31st, 1781.

SIR,—The letters and papers accompanying this will inform your Excellency of the arrival of a British flag Vessel with clothing, refreshments, money &c—for their prisoners under the convention of Saratoga. The Gentlemen conducting them, have, on supposition that the Prisoners, or a part of them still remained in this State, applied to me by letters, copies of which I transmit your Excellency, for leave to allow water transportation as far as possible, and then for themselves to attend them to the Post where they are to be issued. These indulgences were usually granted them here, but the Prisoners being removed, it becomes necessary to transmit the application to Congress for their direction. In the meantime the flag will wait in James river.

Our intelligence from Genl Greene's camp as late as the 24th, is, that Ld Cornwallis's march of the day before had decided his route to cross creek.

The amount of the reinforcements to the enemy arrived at Portsmouth is not yet known with certainty.[1] Accounts differ from 1500 to much larger numbers. We are informed they have a considerable number of Horse. The affliction of the People for want of arms is great, that of ammunition is not yet known to them. An apprehension is added that the enterprise on Portsmouth being laid aside, the troops under the Marquis Fayette will not come on. An

[1] Under the command of Phillips.

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Enemy 3000 strong, not a regular in the State, nor arms to put into the hands of the Militia are indeed discouraging circumstances.

TO MAJOR-GENERAL PHILLIPS, OR OTHER THE COMMANDING OFFICER OF THE FORCES OF HIS BRITANNIC MAJESTY BY SEA OR BY LAND IN VIRGINIA,

V. S. A.

RICHMOND, March 31st, 1781.

SIR,—I have duly received your favor dated New York, March 8th. The removal of the German Troops of Convention also from this State was a circumstance probably not known to you at that Date. I am as yet uninformed of the Post at which they have been stationed, but believe it to be York Town and Lancaster in Pensylvania, the nearest navigation to which is the Head of Chesapeake Bay. The permissions desired for facilitating the Delivery of the stores on board the Flag are consequently not within our Gift; but I have forwarded the applications to Congress and shall hope shortly to communicate their consent to the Gentlemen conducting the Flag.

General Scott the Commanding Officer of the Virginia Line in Captivity at Charles Town, sollicited & obtained from the Commandant there a license to us to send Tobacco in any quantity for the Relief of our Officers there. I take the Liberty of enclosing to you a copy of an extract from his letter on that subject to the Commandant and the answer he received as furnished me by General Scott. I do not expect

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that such a copy without a passport or other authentic Document from any British Officer would be sufficient protection to the vessels which should go charged with this Tobacco. I would therefore beg the favor of you to indulge us with a Passport, in which I should not object to the Insertion of cautionary provisions rendering the Passport invalid if the License should not have been really obtained as the copy of the Letter imports. All I ask is that the vessel or vessels may be protected to Charles Town and to rest for safety there on what has passed between the Commandant and General Scott. Being informed that the command of the British Land Force within this State was in yourself I am encouraged to make the application to you. Should it have been made more properly to the Naval Commanding Officer give me leave to ask the favor of your handing it to him.

END OF VOLUME II.

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